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**Sunshine Ordinance Task Force  
City & County of San Francisco**

Notice of cancellation of regular meeting

Tuesday, January 25, 2000 • 4PM  
1 Dr. Carlton B. Goodlett Place • Rm 408  
San Francisco CA

Voting Members:

Robert Planthold, Chair  
Hilda Bernstein, Vice Chair  
Angela Armstrong  
Judith Apel  
Bruce Brugmann  
Sue Cauthen  
Ruach Graffis  
David Pilpel  
Tuesday Ray  
David Watkins

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Non-voting Members:

Rachel Arnstine O'Hara, Task Force Clerk  
Gloria Young, Clerk of the Board of Supervisors

The Task Force may be contacted through its Clerk, Rachel Arnstine O'Hara, as follows:

Sunshine Ordinance Task Force  
City Hall, Room 362  
1 Dr. Carlton B. Goodlett Place  
San Francisco CA 94102-4683

(415) 554-6171 Voice  
(415) 554-6177 Fax

### **Disability Access**

This Sunshine Ordinance Task Force meeting will be held in Room 2001 at 1660 Mission Street, San Francisco, between Division Street and South Van Ness Avenue (the Department of City Planning/Department of Building Inspection building).

The meeting location is wheelchair accessible. The closest BART station is 16<sup>th</sup> Street Mission, about four blocks from the meeting location, straight up Mission Street. Accessible Muni lines nearest the meeting location are: 9 San Bruno, 14 Mission, 42 Downtown Loop, 49 Van Ness-Mission, 71 Haight-Noriega, F Market, and Muni Metro (Van Ness station). For more information about Muni accessible services, call (415) 923-6142.

There is accessible on-street parking available in the vicinity of the meeting location.

For assistance with special needs (large print agendas, sign language interpreters, etc.), call Rachel Arnstine O'Hara at (415) 554-6083

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **Know Your Rights Under The Sunshine Ordinance**

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For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at (415) 554-6171

### **Lobbyist Ordinance**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (Administrative Code Sec. 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, contact the Ethics Commission at 1390 Market St Ste 701, San Francisco CA 94102, telephone (415) 554-9510, fax (415) 703-0121, or visit their web site at <http://www.ci.sf.ca.us/ethics/>.

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NOTICE OF CANCELED MEETING

SUNSHINE ORDINANCE TASK FORCE

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FEB 22 2000

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NOTICE IS HEREBY GIVEN that the Regular Meeting of the Sunshine Ordinance Task Force scheduled for Tuesday, February 22, 2000 at 4:00 p.m. at 1 Dr. Carlton B. Goodlett Place, Room 408, City Hall, San Francisco, California, has been canceled.

A handwritten signature in cursive script that reads "Donna L. Hall".

Donna L. Hall  
Administrator

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POSTED: February 16, 2000



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**NOTICE OF CANCELED MEETING**  
**SUNSHINE ORDINANCE TASK FORCE**

NOTICE IS HEREBY GIVEN that the Regular Meeting of the Sunshine Ordinance Task Force scheduled for Tuesday, March 28, 2000 at 4:00 p.m. at 1 Dr. Carlton B. Goodlett Place, Room 408, City Hall, San Francisco, California, has been canceled.

*Donna L. Hall*

Donna L. Hall  
Administrator

DOCUMENTS DEPT.

POSTED: March 16, 2000

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BOARD of SUPERVISORS

**NOTICE OF CANCELED MEETING**

**SUNSHINE ORDINANCE TASK FORCE**

NOTICE IS HEREBY GIVEN that the Regular Meeting of the Sunshine Ordinance Task Force scheduled for Tuesday, April 25, 2000 at 4:00 p.m. at 1 Dr. Carlton B. Goodlett Place, Room 408, City Hall, San Francisco, California, has been **canceled**.

A handwritten signature in cursive script that reads "Donna Hall".

Donna L. Hall  
Administrator

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POSTED: April 20, 2000





Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE

AGENDA

Tuesday, May 23, 2000

3:45 p.m.

City Hall, Room 408

Agenda Changes

I. Oaths of Office (Gloria Young)

Action item: Taking of Oaths of Office

II. Brief introduction of members

--Members (voting and ex-officio)

--Staff

Discussion item

III. Orientation of Task Force

Discussion item

IV. Presentation on roles and responsibilities of staff

--City Attorney's Office

--Administrator

Discussion item

V. Presentation on roles and responsibilities of ex-officio members

--Clerk of the Board (Gloria Young)

--Mayor's representative (Rachel Arnstine)

Discussion item

VI. Presentation on how Sunshine Initiative changed roles and responsibilities of the Task Force: (Jackie Minor)

Discussion item

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VII. Review of activities submitted to Sunshine Ordinance Task Force  
(Donna Hall)

- Formal Complaints
- Complaints/Correspondence

VIII. Formation of Rules Sub-Committee

Action item: Shall the suggested appointments be made to the Rules Sub-Committee?

IX. Civil Grand Jury Preliminary Report and relevance to Task Force  
(Bob Planthold)

Discussion item

X. Date of Special Meeting and next Regular Meeting

Action item: Shall these meetings be set for the proposed dates?

Discussion item



THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL, ROOM 244, RECEPTION DESK

#### DISABILITY ACCESS

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#### KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

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**SUNSHINE ORDINANCE TASK FORCE**

**MINUTES**

**Tuesday, May 23, 2000**

**3:45 p.m.**

**City Hall, Room 408**

**I. Oaths of Office (Gloria Young)**

Oaths given.

DOCUMENTS DEPT

**II. Brief introduction of members**

- Members (voting and ex-officio)
- Staff

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Introductions made.

**III. Orientation of Task Force**

Orientation delivered.

**IV. Presentation on roles and responsibilities of staff**

- City Attorney's Office
- Administrator

Roles given.

**V. Presentation on roles and responsibilities of ex-officio members**

- Clerk of the Board (Gloria Young)
- Mayor's representative (Rachel Arnstine)

Roles given.

**VI. Presentation on how Sunshine Initiative changed roles and responsibilities of the Task Force: (Jackie Minor)**

Presentation given.

VII. Review of activities submitted to Sunshine Ordinance Task Force  
(Donna Hall)

- Formal Complaints
- Complaints/Correspondence

Report given.

VIII. Formation of Rules Sub-Committee

Motion adopted to establish a Rules Committee to address rules and regulations of the Task Force; mechanics of complaints; by-laws, etc.  
(Appel, Cauthen)

Chair Planthold appointed Hilda Bernstein as Chair of the Rules Committee. Additional three members to be appointed at the close of the meeting.

Public Comment

David Pilpel regarding attorney/client privilege  
Frederick Hobson regarding by-law procedures for complaints and grievances  
Alan Nicholson, Civil Grand Jury

IX. Civil Grand Jury Preliminary Report and relevance to Task Force  
(Bob Planthold)

Discussion held. This item will be considered again at a future meeting.

X. Date of Special Meeting and next Regular Meeting

Tentative Special Meeting set for June 20, 2000 for Prop G training for the Task Force and to discuss the complaint procedures; next Regular Meeting June 27, 2000.

Chair Planthold appointed Daniel Guillory, Paul Hogan, Judy Appel to serve on the Rules Committee with Chair Hilda Bernstein.

Submitted by,  
Donna L. Hall, Administrator



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Special  
**Sunshine Ordinance Task Force**



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**SPECIAL MEETING  
SUNSHINE ORDINANCE TASK FORCE  
AGENDA**

**Tuesday, June 20, 2000**

**4:00 p.m.**

**City Hall, Room 278**

**Task Force Members**

|        |                 |            |                  |
|--------|-----------------|------------|------------------|
| Seat 1 | Judith Appel    | Seat 8     | Robert Planthold |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory  |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan       |
| Seat 4 | Margaret Lacson | Seat 11    | Sue Cauthen      |
| Seat 5 | Tuesday Ray     | Ex-officio | Gloria Young     |
| Seat 6 | Hilda Bernstein | Ex-officio | Rachel Arnstine  |
| Seat 7 | Ted Kowalczyk   |            |                  |

**Agenda Changes**

1. Training for Task Force Members on Sunshine Ordinance adopted by voters November 1999

Discussion item

2. Public Comment

**DOCUMENTS DEPT.**

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6/20/00

Sunshine Ordinance Task Force



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**SPECIAL MEETING  
SUNSHINE ORDINANCE TASK FORCE**

**MINUTES**

**Tuesday, June 20, 2000  
4:00 p.m.  
City Hall, Room 278**

Members present: Vince Courtney, Tuesday Ray, Hilda Bernstein, Ted Kowalczyk, Robert Planthold, Daniel Guillory, Paul Hogan, Sue Cauthen, Gloria Young, Rachel Arnstine

Members absent: Bruce Brugmann, Margaret Lacson, Judith Appel

1. Training for Task Force Members on Sunshine Ordinance adopted by voters November 1999

Training given by Jackie Minor and Buck Delventhal of the City Attorney's Office.

2. Public Comment

No public comment.

Meeting adjourned at 5:15 p.m.

Submitted by Donna L. Hall, Administrator

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**NOTICE OF CANCELED MEETING**  
**SUNSHINE ORDINANCE TASK FORCE**

NOTICE IS HEREBY GIVEN that the Regular Meeting of the Sunshine Ordinance Task Force scheduled for Tuesday, July 25, 2000 at 4:00 p.m. at 1 Dr. Carlton B. Goodlett Place, Room 408, City Hall, San Francisco, California, has been **canceled** due to the fact the hearing room was canceled.

There were only six members who definitely said they could attend a Special Meeting in July and August, and one of the presenters (a City staff person) scheduled for the meeting could not attend. The next regular meeting of the Sunshine Ordinance Task Force is Tuesday, August 22, 2000, 4:00 p.m., Room 408, City Hall.

Bob Planthold, Chair

POSTED: July 20, 2000

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Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE  
AGENDA**

**Tuesday, August 22, 2000  
4:00 p.m.  
City Hall, Room 408**

**Task Force Members**

|        |                 |            |                  |
|--------|-----------------|------------|------------------|
| Seat 1 | Judith Appel    | Seat 8     | Robert Planthold |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory  |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan       |
| Seat 4 | Vacant          | Seat 11    | Sue Cauthen      |
| Seat 5 | Tuesday Ray     | Ex-officio | Gloria Young     |
| Seat 6 | Hilda Bernstein | Ex-officio | Rachel Arnstine  |
| Seat 7 | Ted Kowalczyk   |            |                  |

**Agenda Changes**

**Roll Call**

DOCUMENTS DEPT.

1. Approval of Minutes of June 27, 2000

Action item: Approval of minutes

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2. Election of Chair/Vice Chair  
--Chair  
--Vice Chair

Action item: Election of Chair and Vice Chair

3. Report from Rules Committee (Hilda Bernstein)

Action item:

- Adoption of By-Laws
- Approval of Public Complaint Procedure
- Approval of Task Force Annual Responsibilities & Objectives
- Approval of Public Education & Information Committee Guidelines

4. Report from City Administrator on semi-annual progress of records index (Bill Lee)

Discussion item

5. Hearings  
--Nick Pasquariello: 7-7-00 complaint filed regarding e-mail procedures of Mayor's Office of Neighborhood Services

Action item: Disposition of complaints

6. Civil Grand Jury Interim Report and relevance to Task Force (Tuesday Ray)

Action item: Possible response to Civil Grand Jury

7. Monthly report from Sunshine Ordinance Task Force Administrator (Donna Hall)

Discussion item

8. Public comment

Next Meeting September 26, 2000



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Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE DOCUMENTS DEPT

MINUTES

FEB - 8 2001

Tuesday, August 22, 2000  
4:00 p.m.  
City Hall, Room 408

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Task Force Members

|        |                 |            |                  |
|--------|-----------------|------------|------------------|
| Seat 1 | Judith Appel    | Seat 8     | Robert Planthold |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory  |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan       |
| Seat 4 | Vacant          | Seat 11    | Sue Cauthen      |
| Seat 5 | Tuesday Ray     | Ex-officio | Gloria Young     |
| Seat 6 | Hilda Bernstein | Ex-officio | Rachel Arnstine  |
| Seat 7 | Ted Kowalczuk   |            |                  |

Items approved unanimously except as noted. (First name indicates initiator of motion; second name indicates person seconding the motion.)

Roll Call

All members present except Vince Courtney and Tuesday Ray.

1. Approval of Minutes of June 27, 2000

Approved. (Hogan/Kowalczuk) (Courtney/Ray absent)

2. Election of Chair/Vice Chair

Sue Cauthen withdrew her name for Chair.

Bruce Brugmann nominated Hilda Bernstein for Chair. There were no further nominations. Unanimous vote electing Hilda Bernstein Chair.



Bruce Brugmann nominated Paul Hogan for Vice Chair. There were no further nominations. Unanimous vote electing Paul Hogan Vice Chair.

3. Report from Rules Committee

--Adoption of By-Laws

Unanimous vote adopting By-Laws as presented.

--Approval of Public Complaint Procedure

Section B. Filing a Petition of Complaint with the SOTF, #10 regarding city attorney assignment was discussed among members.

Motion adopted to sever Item 10 from Section B of the submitted Public Complaint Procedure for further discussion. (Brugmann/Guillory) (Courtney/Ray absent)

Judy Appel to work with Bruce Brugmann to bring back to the Task Force suggestions for further consideration on Item 10.

Motion adopted adopting the Public Complaint Procedure, minus the last sentence of Item 10, as submitted. (Bernstein/Hogan) (Courtney/Ray absent)

--Approval of Task Force Annual Responsibilities & Objectives

Unanimous vote approving Task Force Annual Responsibilities and Objectives as submitted.

--Approval of Public Education & Information Committee Guidelines

Unanimous vote approving the Public Education & Information Committee Guidelines.

4. Report from City Administrator on semi-annual progress of records index

City Administrator Bill Lee presented his first semi-annual report. Fifty-nine departments/divisions were contacted regarding the City Records Index. All 59 have responded.

General questions from Task Force to Mr. Lee regarding the process. Rod Loucks from DTIS and Jill Lerner from Administrative Services answered questions of the Task Force.

One public speaker addressed the Task Force regarding the process.



The report was accepted and filed.

8. Public comment

Gilbert Criswell addressed the Task Force regarding the Democratic Central Committee procedures.

Bruce Brugmann requested this item be placed on a future agenda.

5. Hearings

--Nick Pasquariello: 7-7-00 complaint filed regarding e-mail procedures of Mayor's Office of Neighborhood Services

Deputy City Attorney Jackie Minor stated Deputy City Attorney Dorji Roberts would give advice to the Task Force on this item because she has given advice to the department.

At this time Bob Planthold left the meeting.

Nick Pasquariello addressed the Task Force regarding his concern of the City's email policy.

General discussion among the Task Force regarding the email policy.

Chairperson Bernstein appointed a committee of Paul Hogan, Judy Appel, and Dan Guillory to review this item and report back to the Task Force.

Bruce Brugmann recommended the committee talk to representatives from the Mayor's office and the Planning Department.

This item was continued for discussion to the next meeting.

6. Civil Grand Jury Interim Report and relevance to Task Force

This item was continued to the next meeting.

7. Monthly report from Sunshine Ordinance Task Force Administrator

Monthly report of Administrator Donna Hall received and filed.

Rachel Arnstine reported August 31 would be her last day of employment with the City/County of San Francisco.





The meeting adjourned at 6:00 p.m. in honor of Rachel Arnstine for her exemplary service to the City/County of San Francisco and her service to the Sunshine Ordinance Task Force.

Submitted by

Donna L. Hall, Administrator



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Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE

DOCUMENTS DEPT

MINUTES

FEB - 8 2001

Tuesday, June 27, 2000  
4:00 p.m.  
City Hall, Room 408

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Task Force Members

|        |                 |            |                  |
|--------|-----------------|------------|------------------|
| Seat 1 | Judith Appel    | Seat 8     | Robert Planthold |
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| Seat 5 | Tuesday Ray     | Ex-officio | Gloria Young     |
| Seat 6 | Hilda Bernstein | Ex-officio | Rachel Arnstine  |
| Seat 7 | Ted Kowalczyk   |            |                  |

Items approved unanimously except as noted. (First name indicates initiator of motion; second name indicates person seconding the motion.)

1. Roll call

All members present except Margaret Lacson. (Tuesday Ray entered meeting after Item 1.)

2. Approval of Minutes of May 23, 2000 and June 20, 2000

Approved. (Cauthen/Bruggmann)

3. Report from Rules Committee (Hilda Bernstein)

By-Laws report given by Deputy City Attorney Minor. General discussion held among members regarding:

Article III, Section 1. Duties of the Chair

Article IV, Section 3. Notice of Meetings



Article IV, Section 4. Cancellation of Meetings  
Article IV, Section 5. Conduct of Meetings  
Article IV, Section 7. Action at a Meeting; Quorum and Required  
Vote  
Article IV, Section 11. Public Testimony  
Article VII. Attendance

Deputy City Attorney Minor to take comments and incorporate for presentation to the Rules Committee. The Rules Committee will redraft and present the next draft to the next Task Force Meeting.

Report from Judy Appel on Initial Outline of Proposed Complaint Procedure. General discussion held among members regarding:  
Role of the Administrator, Custodian of Records  
Language regarding City Attorney structure  
Difference between a complaint and a question of the ordinance  
Repeat customers

Judy Appel will incorporate comments from the Task Force into another draft and present to the Rules Committee. The Rules Committee will redraft and present the next draft to the next Task Force Meeting.

Report by Daniel Guillory on timelines for requirements of the Task Force. General discussion was held regarding the timelines.

Daniel Guillory will incorporate comments from the Task Force into another draft and present to the Rules Committee. The Rules Committee will redraft and present the next draft to the next Task Force Meeting.

Report by Paul Hogan on proposed By-Laws inclusion of a Standing Committee on Public Education and Information. General discussion was held regarding public education and information and media.

The Task Force was in agreement with the proposed committee.

General discussion held among the Task Force regarding:  
After committees are formed, each committee will bring back their charge.  
Possibility of Rules Committee being elected by the entire Task Force; however, suggestion was made the Chair appoint all committees  
By-Laws are always subject to amendment and modification

Hilda Bernstein stated all comments from the Task Force would be considered by the Rules Committee and another draft presented at the next Task Force Meeting.



4. Administrator Report (Donna Hall)

Correspondence Log presented to the Task Force  
Telephone/Email Log presented to the Task Force  
Complaint Log presented to the Task Force

5. Civil Grand Jury Preliminary Report and relevance to Task Force  
(Bob Planthold)

Tuesday Ray to prepare a Task Force draft response to the Preliminary  
Report of the 1999-2000 San Francisco Civil Grand Jury to those issues  
relative to the Sunshine Ordinance Task Force.

6. Election of officers

--Chair  
--Vice Chair

Bruce Brugmann nominated Hilda Bernstein for Chair  
Tuesday Ray nominated Sue Cauthen for Chair

Result of voting:

|                      |                    |
|----------------------|--------------------|
| Appel: Bernstein     | Courtney: Cauthen  |
| Brugmann: Bernstein  | Ray: Cauthen       |
| Bernstein: Bernstein | Kowalczyk: Cauthen |
| Planthold: Bernstein | Hogan: Cauthen     |
| Guillory: Bernstein  | Cauthen: Cauthen   |

Lacson: Absent

Five/five tie.

Motion to place this item will be on the next Task Force Meeting Agenda.  
(Guillory/Ray) (Planthold no)

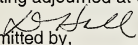
7. Public Comment

No comment from the public.

8. Date of Special Meeting

No action.

Meeting adjourned at 6:00 p.m.

Submitted by,   
Donna L. Hall, Administrator





CF  
S88  
#2  
6/27/00

Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

SUNSHINE ORDINANCE TASK FORCE

DOCUMENTS DEPT.

MINUTES

FEB - 8 2001

Tuesday, June 27, 2000  
4:00 p.m.  
City Hall, Room 408

SAN FRANCISCO  
PUBLIC LIBRARY

Task Force Members

|        |                 |            |                  |
|--------|-----------------|------------|------------------|
| Seat 1 | Judith Appel    | Seat 8     | Robert Planthold |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory  |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan       |
| Seat 4 | Margaret Lacson | Seat 11    | Sue Cauthen      |
| Seat 5 | Tuesday Ray     | Ex-officio | Gloria Young     |
| Seat 6 | Hilda Bernstein | Ex-officio | Rachel Arnstine  |
| Seat 7 | Ted Kowalczuk   |            |                  |

Items approved unanimously except as noted. (First name indicates initiator of motion; second name indicates person seconding the motion.)

1. Roll call

All members present except Margaret Lacson. (Tuesday Ray entered meeting after Item 1.)

2. Approval of Minutes of May 23, 2000 and June 20, 2000

Approved. (Cauthen/Brugmann)

3. Report from Rules Committee (Hilda Bernstein)

By-Laws report given by Deputy City Attorney Minor. General discussion held among members regarding:

Article III, Section 1. Duties of the Chair

Article IV, Section 3. Notice of Meetings



Article IV, Section 4. Cancellation of Meetings  
Article IV, Section 5. Conduct of Meetings  
Article IV, Section 7. Action at a Meeting; Quorum and Required  
Vote  
Article IV, Section 11. Public Testimony  
Article VII. Attendance

Deputy City Attorney Minor to take comments and incorporate for presentation to the Rules Committee. The Rules Committee will redraft and present the next draft to the next Task Force Meeting.

Report from Judy Appel on Initial Outline of Proposed Complaint Procedure. General discussion held among members regarding:  
Role of the Administrator, Custodian of Records  
Language regarding City Attorney structure  
Difference between a complaint and a question of the ordinance  
Repeat customers

Judy Appel will incorporate comments from the Task Force into another draft and present to the Rules Committee. The Rules Committee will redraft and present the next draft to the next Task Force Meeting.

Report by Daniel Guillory on timelines for requirements of the Task Force. General discussion was held regarding the timelines.

Daniel Guillory will incorporate comments from the Task Force into another draft and present to the Rules Committee. The Rules Committee will redraft and present the next draft to the next Task Force Meeting.

Report by Paul Hogan on proposed By-Laws inclusion of a Standing Committee on Public Education and Information. General discussion was held regarding public education and information and media.

The Task Force was in agreement with the proposed committee.

General discussion held among the Task Force regarding:  
After committees are formed, each committee will bring back their charge.  
Possibility of Rules Committee being elected by the entire Task Force; however, suggestion was made the Chair appoint all committees  
By-Laws are always subject to amendment and modification

Hilda Bernstein stated all comments from the Task Force would be considered by the Rules Committee and another draft presented at the next Task Force Meeting.



4. Administrator Report (Donna Hall)

Correspondence Log presented to the Task Force  
Telephone/Email Log presented to the Task Force  
Complaint Log presented to the Task Force

5. Civil Grand Jury Preliminary Report and relevance to Task Force  
(Bob Planthold)

Tuesday Ray to prepare a Task Force draft response to the Preliminary  
Report of the 1999-2000 San Francisco Civil Grand Jury to those issues  
relative to the Sunshine Ordinance Task Force.

6. Election of officers

--Chair  
--Vice Chair

Bruce Brugmann nominated Hilda Bernstein for Chair  
Tuesday Ray nominated Sue Cauthen for Chair

Result of voting:

Appel: Bernstein  
Brugmann: Bernstein  
Bernstein: Bernstein  
Planthold: Bernstein  
Guillory: Bernstein

Courtney: Cauthen  
Ray: Cauthen  
Kowalczyk: Cauthen  
Hogan: Cauthen  
Cauthen: Cauthen

Lacson: Absent

Five/five tie.

Motion to place this item will be on the next Task Force Meeting Agenda.  
(Guillory/Ray) (Planthold no)

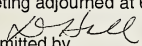
7. Public Comment

No comment from the public.

8. Date of Special Meeting

No action.

Meeting adjourned at 6:00 p.m.

  
Submitted by,  
Donna L. Hall, Administrator



Sf  
S88  
#1  
9/26/00  
Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**SUNSHINE ORDINANCE TASK FORCE**

**AGENDA**

**Tuesday, September 26, 2000**

**4:00 p.m.**

**City Hall, Room 408**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Vacant                 | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczyk          |            |                        |

**Agenda Changes**

**Roll Call**

1. Approval of Minutes of August 22, 2000 (5 min)

Action item: Approval of minutes

2. Report from Chair (Hilda Bernstein) (3 min)

Discussion item

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SEP 22 2000

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3. Report from Ad Hoc Committee regarding City Email Policy (Paul Hogan, Chair)  
This item was referred from the last meeting. (20 min)

Discussion and possible approval of Committee recommendation to request City Attorney Office to prepare memo to all departments reiterating the email policy and outlining examples

Discussion and possible approval of draft letter to Mayor's Office

Discussion and possible approval of draft letter to Planning Department

Report from Judy Appel regarding her discussion with Nick Pasquariello  
Possible action item

4. Report of Rules Committee (Bob Planthold, Chair) (10 min)

Discussion and possible approval of Mission Statement of the Rules Committee

Discussion and possible approval of the Work Program outlining the time frame for the Annual Report

5. Report of Public Education and Information Committee (Paul Hogan, Chair) (10 min)

Discussion and possible approval of the Mission Statement and Work Program for the Public Education and Information Committee

6. Report of Complaint Committee (Judy Appel, Chair) (20 min)

Discussion and possible approval of the Mission Statement and Work Program for the Complaint Committee

Discussion and possible action:

Complaints:

Gloria Tulanowski complaint

John Jenkel complaints 13, 14, 15

7. Hearing of Gloria Tulanowski: 7/13/00 complaint regarding Planning Department posting (20 min)

Discussion and possible action item



8. Civil Grand Jury Interim Report and relevance to Task Force (Tuesday Ray).  
This item was continued to this meeting. (10 min)

Discussion and possible action item

9. Monthly report from Sunshine Ordinance Task Force Administrator. (Donna Hall)  
(5 min)

Discussion item

10. Public Comment (20 min)

**Next Regular Meeting 10/24/00**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL  
ROOM 244, RECEPTION DESK**

**Disability Access**

The hearing room is wheelchair accessible.

**Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

**KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244; by phone at 415 554 7724; by fax at 415 554 5163; or by email at Donna\_Hall@ci.sf.ca.us.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>

SF

388

#2

9/26/00

## Sunshine Ordinance Task Force



City Hall  
 Dr. Carlton B. Goodlett Place, Room 244  
 San Francisco 94102-4689  
 Tel. No. 554-7724  
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 TDD/TTY No. 544-5227

DOCUMENTS DEPT

## SUNSHINE ORDINANCE TASK FORCE

## MINUTES

Tuesday, September 26, 2000  
 4:00 p.m.

City Hall, Room 408

FEB - 8 2001

SAN FRANCISCO  
 PUBLIC LIBRARY

## Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Vacant                 | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczyk          |            |                        |

## Roll Call

All present

1. Approval of Minutes of August 22, 2000

Approved. (Planthold/Appel)

2. Report from Chair (Hilda Bernstein)

Oral report.



3. Report from Ad Hoc Committee regarding City Email Policy (Paul Hogan, Chair)  
This item was referred from the last meeting.

Discussion and possible approval of Committee recommendation to request City Attorney Office to prepare memo to all departments reiterating the email policy and outlining examples

Motion adopted requesting the City Attorney to prepare a statement of policy of retention and destruction of emails, to be widely distributed, and to be brought back to the Task Force for approval. (Hogan/Brugmann)

Jackie Minor, Deputy City Attorney, stated any memo from the City Attorney's Office would be sent to the departments and the departments would distribute among their divisions.

Judy Appel stated it was her understanding the City Attorney's Office would draft the memo, and the memo would go out under the Task Force.

Paul Hogan stated it was his impression the memo would go from the City Attorney's Office.

Discussion and possible approval of draft letter to Mayor's Office

Discussion and possible approval of draft letter to Planning Department

Report from Judy Appel regarding her discussion with Nick Pasquariello  
Possible action item

The draft letters and Nick Pasquariello discussion were continued to the next meeting.

Rod Loucks, Department of Telecommunications & Information Services, addressed the Task Force. Paul Hogan asked Rod Loucks if there was a copy on a central email service of the email in question. Rod Loucks stated "no." Judy Appel asked Rod Loucks if there was a way to retrieve the email. Rod Loucks stated departmental servers are administered by their IT staffs.

Rod Loucks to supply name of person who administers server in Mayor's Office.

4. Report of Rules Committee (Bob Planthold, Chair)

Discussion and possible approval of Mission Statement of the Rules Committee

Motion adopted approving submitted Mission Statement of the Rules Committee (see attached). (Ray/Hogan)



Discussion and possible approval of the Work Program outlining the time frame for the Annual Report

Motion adopted authorizing the Rules Committee to take the lead in preparing the points to include in the Annual Report and to report back to the Task Force. (Appel/Cauthen)

5. Report of Public Education and Information Committee (Paul Hogan, Chair)

Discussion and possible approval of the Mission Statement and Work Program for the Public Education and Information Committee

Gloria Tulanowski addressed the Task Force stating the Sunshine Ordinance Task Force should indeed expand their responsibilities.

Motion adopted accepting Mission and Work Program of the Public Education & Information Committee (see attached). (Hogan/Guillory)

10. Public Comment

G. Jacobs, 230 Eddy Street, addressed the Task Force stating her concern with the direction that the City/County of San Francisco is going.

6. Report of Complaint Committee (Judy Appel, Chair)

Discussion and possible approval of the Mission Statement and Work Program for the Complaint Committee

Motion adopted approving Mission Statement and Work Program for Complaint Committee (see attached) (Planthold/Brugmann)

Complaints:

Gloria Tulanowski complaint

Motion adopted approving recommendation of the Complaint Committee as to their agreement with the memorandum from the Deputy City Attorney dated September 21, 2000 and presented to the Complaint Committee relative to the Tulanowski complaint as follows:(see attached) (Planthold/Guillory) (Brugmann no)

#1 yes

#2 yes

#3 yes

#4 no

#5 no





#6 yes  
#7 no  
#8 (i) yes  
#8 \*ii) no  
#8 (iii) no  
#8 (iv) yes  
#8 (v) no  
#9 (i) no  
#9 (ii) yes  
#9 (iii) yes

Judy Appel stated there was discussion in the Complaint Committee regarding the jurisdictional issue.

The decision of the Complaint Committee was to recommend a hearing on the Tulanowski complaint on September 26.

Bob Planthold left the meeting at this time.

John Jenkel complaints 13, 14, 15

The decision of the Complaint Committee was to recommend a hearing on the Jenkel complaints No. 13, 14, 15 on September 26.

The Complaint Committee has requested Sue Hestor be invited to the next meeting.

7. Hearing of Gloria Tulanowski: 7/13/00 complaint regarding Planning Department posting

Gloria Tulanowski addressed the Task Force stating her great concern regarding the noticing procedures of the Planning Department and Planning Commission regarding File No. 99.730 C.

Kenneth Chin, Planning Department, addressed the concerns of Gloria Tulanowski and outlined the Planning Department responses (see attached). These numbered responses coincided with the complaints as outlined in the memorandum from the Deputy City Attorney dated September 21, 2000 and presented to the Complaint Committee.

Sue Cauthen left the meeting at this time.

Tuesday Ray left the meeting at this time.

Major discussion among the Task Force regarding noticing procedures of the Planning Department, expressing thoughts that process should be over-inclusive noticing; stating some of the Planning Department policies could be revisited.



Kenneth Chin explained the process of notification and the registration list for groups to register to be notified of projects, stating the list is updated each quarter.

Bruce Brugmann inquired if the Planning Department would be open to creating a task force of Sunshine Ordinance Task Force members and neighborhood persons to deal with this issue. Kenneth Chin stated that is a possibility.

Hilda Bernstein inquired of Gloria Tulanowski if this matter was her complaint or was this a complaint from the Haight-Divisadero Neighborhood and Merchants Association. Gloria Tulanowski stated she was an advocate on behalf of Haight-Divisadero Neighborhood and Merchants Association.

Motion adopted to write a letter to the Planning Department expressing the Task Force's concern of noticing process of the Planning Department, specifically as it relates to this complaint. (Appel/Brugmann) (Ray, Cauthen, Planthold absent)

Hilda Bernstein stated that before creating a task force, ask the President of the Planning Commission and the Director of the Planning Department to come to a meeting of the Sunshine Ordinance Task Force and have a discussion with the Task Force, and then based on the outcome of that meeting, possibly call for a task force.

Motion adopted to call a Special Meeting for representatives of the Planning Department and Planning Commission and from the public to discuss public noticing procedures. (Guillory/Brugmann)

Judy Appel left the meeting at this time.

8. Civil Grand Jury Interim Report and relevance to Task Force (Tuesday Ray). This item was continued to this meeting.

This item referred to the Rules Committee to report back to the Task Force with a recommendation.

9. Monthly report from Sunshine Ordinance Task Force Administrator. (Donna Hall)  
Report filed.

The meeting adjourned at 6:15 p.m.

Submitted by Donna L. Hall, Administrator



Date: 9/17/00

Sender: Robert R Planthold <political\_bob@juno.com>

To: Donna Hall, Jacqueline Minor, tuesdayr@hotmail.com, tajue@aol.com

Priority: Normal

Subject: Draft of thoughts on Mission Statement for Rules Committee o

~~Draft of thoughts on a Mission Statement for the Rules Committee of the SOTF:~~

The Rules Committee of the SOTF will:

1. monitor the ability of the SOTF to easily and properly consider and take action on agenda items and complaints;
2. monitor how easily and fully the public participate in the workings of the SOTF through availing themselves of public comment, filing of complaints, and co-operation in investigation of complaints;
3. suggest changes to simplify, clarify, and / or improve the efficiency of both the full SOTF and of its respective sub-committees; and
4. review our rules and procedures annually.



## **The Public Education and Information Committee**

The Public Education and Information Committee ("the Committee") will be a standing committee of the Sunshine Ordinance Task Force ("the Task Force") comprised of no more than three voting members, whose members and chair will be appointed by the Task Force Chair. The role of this Committee will be to provide outreach and publicity to the media and to the general public regarding the Sunshine Ordinance and the Task Force. The Committee will generally meet at noon on the first Wednesday of each month.

The Committee will oversee the preparation and publication informational materials addressing the following topics:

1. The rights of citizens and the responsibilities of City officials and departments under the Sunshine Ordinance.
2. The rights of citizens and the responsibilities of non-profit organizations under Admin. Code Section 12L.
3. The procedures for requesting documents and/or access to meetings as mandated by the Sunshine Ordinance.
4. The roles and responsibilities of the Task Force. The differences between the Task Force, the Ethics Commission and the City Attorney.
5. The procedures for filing a petition with the Task Force and what to expect at a hearing.

A pamphlet containing this information has been prepared and translated into several foreign languages. We will recommend additional languages and accessible formats for this pamphlet.

The Committee will increase its familiarity with these materials and the Sunshine Ordinance and will prepare a list of "Frequently Asked Questions" based on calls received by the Task Force Administrator. This list will be regularly updated and posted on the Web Site of the SOTF.

The Committee will encourage SOTF members to make themselves available to speak at community organizations regarding the above topics. The Committee will coordinate the communication and scheduling of these outreach efforts. The Committee will also collect and study comments from the SOTF outreach speakers regarding the public's experience with the practical aspects of the Sunshine Ordinance, using such to assist the Task Force in proposing Ordinance modifications to the Board of Supervisors.

The Committee will periodically prepare and issue press releases regarding petitions before the Task Force. The Committee will also designate a spokesperson to respond to any media requests for interviews.

The Committee will recommend a meeting schedule and rules of order to be ratified by majority vote of the Task Force.

The Committee will report its activities at each regular meeting of the Task Force.

Approved by Task Force 9/26/00





# San Francisco Sunshine Ordinance Task Force

## Complaint Committee

### [DRAFT] Mission and Work Plan

9/26/00

#### Mission

The Complaint Committee will facilitate the complaint process of the Sunshine Ordinance Task Force, towards the goal of helping members of the public obtain the greatest possible access to city government that is permissible by law.

#### Work Plan

Towards this end, the Complaint Committee shall:

1. Thoroughly review petitions/complaints submitted to the Sunshine Ordinance Task Force (SOTF) so as to ensure their prompt and satisfactory resolution.
2. Make a determination regarding subject matter jurisdiction after hearing the recommendation made by the city attorney.
3. Where the SOTF has jurisdiction and a hearing has been requested, the committee will prepare for the hearing by identifying pertinent legal questions and requesting the necessary legal research, identifying key issues for questioning at the hearing, making sure that all of necessary and other helpful parties have been invited to the hearing, and assisting in the determination of possible conflicts of interest.
4. Where the SOTF has jurisdiction and no hearing has been requested, the committee will first ask the SOTF Administrator to ask the complainant if



they want a hearing held on their complaint, and if no hearing is desired, the committee will make an Order of Determination based on the petition/complaint, supporting materials, the response of the City entity in question, and any other relevant information for recommendation to the full SOTF.

5. Work with the SOTF Administrator and legal counsel to further the best level of communication between the SOTF, members of the public and representatives of the city policy body most knowledgeable about the allegations made in a complaint.
6. Ensure that the SOTF, the SOTF Administrator and the city attorney are all following the complaint procedure. This includes helping to make sure that the representatives of the city are cooperating with requests for responses to complaints and sending a representative to the hearings.
7. Review and revise the complaint procedure as needed, and make recommendations to the full SOTF regarding any proposed changes.
8. Address any additional concerns regarding the complaint process and make recommendations for reform to the full SOTF.
9. Other duties as may be determined by the committee or assigned by the full SOTF.





LOUISE H. RENNE  
City Attorney

JACQUELINE P. MINOR  
Deputy City Attorney

DIRECT DIAL: (415) 554-4703  
E-MAIL: jacqueline\_minor@ci.sf.ca.us

September 21, 2000

## MEMORANDUM

TO: Sunshine Ordinance Task Force  
FROM: Jacqueline Minor  
Deputy City Attorney  
RE: **Complaint to the Task Force re: Planning Commission**

We have reviewed the complaint filed by Gloria R. Tulanowski on behalf of the Haight-Disisadero Neighbors & Merchants Association to determine whether the Sunshine Ordinance Task Force has jurisdiction to consider the complaint. The complaint concerns actions taken by the Department of City Planning and the City Planning Commission with respect to a Request for Conditional Use Authorization sought by Sprint, pursuant to Section 711.83 of the Planning Code, to install antennas and a base transceiver station on the roof of a commercial building located at 1100 Oak Street.

We summarize the allegations of the Complaint below:

- YES 1. The Notice of Hearing by the City Planning Commission on the conditional use authorization was not mailed to the complainant neighborhood association.
- YES 2. The Notice of Hearing listed the applicant's address in a manner that, although consistent with the information in the Tax Assessors Office, created confusion and was misleading to the public and the Post Office because there is no such publicized or recognizable address.
- YES 3. No public notice was posted at the building site to alert the public and allow due process.
- NO 4. Three days before the public hearing, the development project manager held a community meeting and claims to have mailed notice of the meeting to owners and neighbors within a 300-foot radius of 1100 Oak Street. Many persons claim the notice was not received by them.
- NO 5. The meeting was inappropriate and untimely for proper review and consideration, based on the facts as alleged in No. 4 above.
- YES 6. The Planning Commission's file on this matter had no copy of newspaper public notice of meetings on the matter, nor copies or originals of letters and phone calls by concerned individuals.
- NO 7. At the first scheduled hearing of the Planning Commission, the community was granted a continuance based on issues that were raised at the hearing but not answered by the Department of City Planning staff person assigned to the matter.

## Memorandum

TO: Sunshine Ordinance Task Force

DATE: September 21, 2000

8. (i) The property owners and residents of the community were not given notice of the second scheduled Planning Commission hearing, on January 13, 2000, and no public notice issued for that meeting; (ii) the Department staff person answered one question put to the Commission at the first meeting, but failed to answer another question asked; (iii) a member of the Commission stated that the Department staff person handling this matter is now working for Sprint Wireless Telecommunications; (iv) when the complainant stood to speak to the Commission, the Commission President, who was absent from the December 13, 1999 meeting, refused to allow the complainant to speak, claiming "The meeting on this issue was a 'closed' hearing"; and (v) complainant filed an appeal, which was denied due to a technicality.
9. (i) The applicant for the conditional use authorization, and the affected property owner, filed their application at a time that resulted in the two Commission hearings occurring during the holiday season when concerned citizens are at their most vulnerable and least available; (ii) a large Notice of Hearing was posted "on the window of the laundromat of The Brennan Building after the fact [emphasis in original]," which notice showed up well after December 25, 1999 (and therefore after the December 13, 1999 hearing) and had blank spaces where pertinent information should have been disclosed, all of which failed to alert people in the neighborhood of their right to voice their complaints at the hearing; and (iii) this large public notice was not updated for the continued public hearing of January 13, 2000.

Finally, the Complaint contends that the Planning Commission decision on the Conditional Use Authorization should be voided and that Discretionary Review of the case should be granted.

### Role of Sunshine Ordinance Task Force

The Sunshine Ordinance Task Force has jurisdiction over matters pertaining to the Sunshine Ordinance, the California Public Records Act, and the Brown Act (hereafter, the "Sunshine laws").

With one possible exception, the allegations of the Complaint are not based on the Sunshine laws. The Complaint contains no allegation that the agendas or notices provided for the Planning Commission hearings violated any requirement of the Sunshine laws. Nor does the meeting conducted by the development project manager (allegation No. 4) appear to be subject to the requirements of these laws and the Complaint makes no such allegation. Rather, the allegations of the Complaint concern the notice, scheduling and conducting of hearings on an application for a Conditional Use Authorization, matters governed by the City Planning Code (See, Sections 316-316.8 and the Sections referenced therein of the Planning Code.).<sup>1</sup>

Moreover, the relief that the Complaint seeks is to void the decision of the Planning Commission and grant Discretionary Review. The procedures for appeals of decisions by the

<sup>1</sup>The Complaint contains one allegation that does not concern City Planning Code procedures. The Complaint alleges that a Department of City Planning staff person assigned to the case "is now working with Sprint Wireless Telecommunications." It is not clear what law the complainant alleges has been violated, although she is possibly alleging conflict of interest. If that is the case, the Sunshine Ordinance Task Force does not have jurisdiction.

## Memorandum

TO: Sunshine Ordinance Task Force  
DATE: September 21, 2000

Planning Commission on Conditional Use Authorizations are not governed by the Sunshine laws, but by Section 4.105 of the Charter and City Planning Code Section 308.1. Those provisions give the Board of Supervisors the jurisdiction to affirm, modify or disapprove City Planning Commission decisions on Conditional Use Authorizations. Similarly, the procedure for granting Discretionary Review is not governed by the Sunshine laws, but by Business and Tax Regulations Code Section 26.

Accordingly, the Sunshine Ordinance Task Force does not have jurisdiction to consider the Complaint insofar as it alleges violations of the City Planning Code, nor to overturn a decision granting a Conditional Use Authorization or granting or denying Discretionary Review.

We noted one possible exception to the conclusion that the Complaint was not based on violation of the Sunshine laws. That exception is the allegation that when the complainant "stood before the Commission to speak," the Commission President "refused to allow me to speak, claiming 'The meeting on this issue was a 'closed' hearing.'"

The Sunshine Ordinance requires that "[e]very agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within the policy body's subject matter jurisdiction." S.F. Admin. Code Section 67.15(a). The Brown Act contains the same requirement. Government Code Section 54954.3. The Sunshine Ordinance also requires that policy bodies adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes." S.F. Admin. Code Section 67.15(c).

It is not possible to ascertain from the Complaint the full nature of the exchange between the Complainant and the Commission President. A Commission President has the right to require members of the public to step aside after their time to speak has elapsed, to refrain from speaking on an issue that is not relevant to the item under consideration, or to take other action designed to allow testimony be taken in an orderly manner. However, if the allegation is that the Commission President "refused to allow me to speak," the Sunshine Ordinance Task Force has jurisdiction to conduct a hearing to determine if a violation of the Sunshine Ordinance has occurred.

Please let me know if you have any questions.





**Response to Sunshine Ordinance Complaint  
against San Francisco Planning Commission  
Re. Case No. 99.730C.**

**Complaint #1**

- Department records show no record of the Haight-Divisadero Neighbors and Merchants Association (HDNMA). In order to be notified as a Neighborhood Group, you must be on this list.
- Marc Lorenzen, the President of the HDNMA was at the Community Outreach meeting held prior to the Planning Commission Hearing, therefore, he was aware of the project.
- There were 315 notices sent to the neighborhood (88 owners, 227 occupants). In addition, 27 neighborhood groups were notified.

**Compliant #2**

- 1100 Oak Street is the official address, per the Assessor's Office. Furthermore, on the poster, ad and calendar the following language was stated, "Northwest corner at Divisadero, Lot 16 in Assessor's Block 1215".

**Complaint #3**

- Two posters were given to the applicant and posted on both the Oak and Divisadero Street frontages. A Declaration of Posting affidavit was submitted by the applicant.
- In addition, the ad was published in the San Francisco Independent on November 27, 1999.

**Complaint #4**

- The mailing for the Community Outreach meeting is the same as the Notice of Public Hearing that the Planning Department sends to everyone within 300 feet.

**Compliant #5**

- The Community Outreach meeting held by the applicant was done within the requirements and expectations of the Planning Department.



#### Complaint #6

- The public hearing for Case No. 99.730C was published in the Independent on November 27, 1999.
- Upon receipt of a letter, the letter is stamped and dated "Received". No letters were received by the Department regarding this case.

#### Complaint #7

- Case No. 99.730C was continued on December 16, 1999 to allow the staff planner to confirm that the penthouse was a mechanical penthouse, and not a residential penthouse.

#### Complaint #8

- The Planning Department does not re-notify, if the case is continued at the originally scheduled date.

#### Complaint #9

- The applicant has provided a Declaration of Posting stating that the poster was posted for the 20 days prior to the December 16, 1999 hearing, as required.
- There were only 2 existing cell sites and not 3 at this location.



181  
OF  
588  
#1  
10/24/00

Sunshine Ordinance Task Force



City Hall  
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**SUNSHINE ORDINANCE TASK FORCE**

**AGENDA**

**Tuesday, October 24, 2000**

**4:00 p.m.**

**City Hall, Room 408**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Vacant                 | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczuk          |            |                        |

**Agenda Changes**

**Roll Call**

DOCUMENTS DEPT.

1. Approval of Minutes of September 26, 2000 (5 min)

Action item: Approval of minutes

2. Report from Chair (Hilda Bernstein) (3 min)

Discussion item

3. Report of Rules Committee (Bob Planthold, Chair) (15 min)

Shall the suggested Annual Report points be used?

Shall the proposed response to the Civil Grand Jury be used?

4. Report of Public Education and Information Committee (Paul Hogan, Chair) (10 min)

Shall the latest proposed work plan be adopted?

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5. Report of Complaint Committee (Judy Appel, Chair) (15 min)  
Discussion and possible action
6. Report from Supervisor of Public Records (City Attorney): Annual review and report. (Dorji Roberts) (15 min)  
Discussion and possible action
7. Hearing of John Jenkel: Complaint #13: Complaint that three-minute time limit not uniformly applied by Small Business, Economic Vitality and Consumer Services Committee at its meeting of August 10, 1999 (20 min)  
Discussion and possible action
8. Hearing of John Jenkel: Complaint #14: Complaint that Port Commission agenda description inadequate for Item 8 A, June 13, 2000 Agenda (20 min)  
Discussion and possible action
9. Hearing of John Jenkel: Complaint #15: Supervisor's Kaufman's denial for request for attorney legal opinion (20 min)  
Discussion and possible action
10. Hearing of Davis/Reno, representing Local 21, AFL-CIO: Request for Compensatory Time Records by Local 21, AFL-CIO, from the Human Rights Commission (20 min)  
Discussion and possible action
11. Report from Sunshine Ordinance Task Force Administrator (Donna Hall) (5 min)  
Discussion item
12. Public Comment (20 min)

## **ADJOURNMENT**

**Next Regular Meeting 11/28/00**

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**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
TUESDAY THROUGH FRIDAY, ROOM 409, SUNSHINE ORDINANCE TASK  
FORCE OFFICE**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at Donna\_Hall@ci.sf.ca.us.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>





Bob Planthold submitted the recommendation from the Rules Committee for the suggested points for the Annual Report. Motion adopted approving the report with one change—that the sentence “Ad Hoc committee on email communications” be changed to say “Special Committees as needed.” (See attached report) (Appel/Kowalczyk) (Brugmann, Ray, Mallare absent)

Bob Planthold submitted the recommendation from the Rules Committee for suggested responses to the Civil Grand Jury Report.

Finding 10: Clerk of the Board Gloria Young suggested the recommendation “Request the Clerk of the Board to send yearly reminders to agencies that are required to file mandated reports with the Board of Supervisors to file the reports with the Clerk of the Board for distribution to the Board of Supervisors” that this request be made of the Mayor since the departments under this organization report directly to the Mayor. Bob Planthold stated it was the suggestion of the Rules Committee that this be a reminder.

Gloria Young stated she would agree with Finding 10 as long as it is understood it is a “request” and not a “mandate.”

Motion adopted approving the recommendation of the Rules Committee for suggested responses to the Civil Grand Jury Report. (See attached report) (Kowalczyk/Cauthen) (Brugmann, Ray, Mallare absent)

4. Report of Public Education and Information Committee (Paul Hogan, Chair)

Informational report (Committee did not have a quorum) on public information reports; brochure dissemination; annual report suggestions; frequently asked questions list.

5. Report of Complaint Committee (Judy Appel, Chair)

Information report on meeting with Chair; next Complaint Committee meeting to have recommendations on complaint process; briefly discussed Davis/Reno complaint.

6. Report from Supervisor of Public Records (City Attorney): Annual review and report. (Dorji Roberts)

Report given.

Public comment from John Jenkel stating he would resubmit his complaint listed on the report as Item #6; stated Complaint #11 was never considered by Sunshine Ordinance Task Force.



Motion adopted approving the Report of the Supervisor of Public Records. (See attached) (Hogan/Guillory) (Courtney no) (Brugmann, Ray, Mallare absent)

7. Hearing of John Jenkel: Complaint #13: Complaint that three-minute time limit not uniformly applied by Small Business, Economic Vitality and Consumer Services Committee at its meeting of August 10, 1999

John Jenkel, Complainant, explained his Complaint #13 regarding the Small Business, Economic Vitality and Consumer Services Committee regarding legislation passed that never received public comment; he was not able to make comment on an item; time limit was imposed in the middle of presentation; two items combined; the two items were not related.

Michael Farrah, Legislative Aide to Supervisor Newsom explained Supervisor Newsom is aware of the rules of the Sunshine Ordinance in uniformly applying public testimony; Supervisor Newsom explains the rules of public comment stating everyone will have the same amount of time; the two items might have been were called together; the items were not combined; Supervisor Newsom knows that letters are not a substitute for public comment; perhaps a Board rule could be adopted that allowed for a two sentence statement to be read before meetings to explain the Sunshine Ordinance before every committee meeting that would make it clear to all involved what the rules were and bring to light what the Sunshine Ordinance does.

Michael Farrah stated Supervisor Newsom would look forward to recommendations from the Task Force.

Gloria Young stated when items are combined public comment is usually given a one-time period, i.e., three minutes rather than six minutes; the Clerk of the Board is updating the Rules of Order; this particular item is not currently in the Rules of Order.

Vince Courtney stated he commended Mr. Farrah for suggesting the two-sentence rule; is a proactive way to explain the rule; feels we should move forward on this offer.

Task Force members expressed concern about items being combined and public comment being reduced.

Judy Appel suggested the Task Force possibly look into recommending the Board adopt a rule that would allow for greater public comment.

Motion adopted for Order of Determination: The Sunshine Ordinance Task Force shall work with the Clerk of the Board of Supervisors and others as appropriate to draft recommended changes to the Sunshine Ordinance or the



Board Rules of Order regarding public comment length, particularly as it pertains to agenda items that are called together. (Appel/Courtney) (Kowalczuk no) (Brugmann, Ray, Mallare absent)

Paul Hogan requested information from the City Attorney regarding the granting of relief when a person is cut off from public comment. Jackie Minor stated public comment is not a provision that would render the decision of the policy body voidable. Based on the Brown Act it is unlikely there would be any kind of punitive remedy that would be granted by a court and that this body has no jurisdiction as such to take affirmative, punitive action.

Guillory moved to amend Order of Determination: Based on the language of the ordinance as it exists, there was not apparently a violation of the Sunshine Ordinance at this meeting. Motion withdrawn.

Motion adopted to amend Order to Determination to include: The Sunshine Ordinance Task Force determines that insufficient evidence was provided to show a violation of the Sunshine Ordinance relative to the facts in this petition. (Guillory/Planthold) (Brugmann, Ray, Mallare absent)

8. Hearing of John Jenkel: Complaint #14: Complaint that Port Commission agenda description inadequate for Item 8 A, June 13, 2000 Agenda

John Jenkel, Complainant, explained his Complaint #14, stating unaccountability of San Francisco Port Commission; violation of agenda description regarding public attraction use; in fact the business was for commercial amusement; commercial amusement is not public attraction; this makes this resolution voidable in a court of law; agenda said one thing and the Port Commission did another.

Vince Courtney stated we are not recommending disposing of public comment.

Kurt Watts, Development Project Coordinator for the Port of San Francisco: our position is that the agenda was accurate in the description of the agenda item and discussion that followed; some of the other public attractions both have ticketed admission and unticketed admission; distinction between whether or not it is a profit or nonprofit group or ticketed or non-ticket attraction speaks to the issue; public attraction fits all categories and item description fits the agenda.

Bob Planthold asked Mr. Watts about source and authority of distinction between public attraction and ticketed amusement or public attraction and private entertainment for consideration and free attraction.



Mr. Watts stated not aware of any guidelines that would specify that public attractions should either be free and must be open to a non-ticketed type of situations.

Mr. Jenkel stated the purpose of the Port tideland is not for commercial gain; it is for preserving the natural attraction.

Motion adopted for Order of Determination: The Sunshine Ordinance Task Force respectfully denies this petition. (Hogan/Courtney) (Brugmann, Ray, Mallare absent)

9. Hearing of John Jenkel: Complaint #15: Supervisor's Kaufman's denial of a public records request for a private attorney legal opinion

John Jenkel, Complainant, explained his Complaint #15, explaining possible conflict of interest of Supervisor Kaufman voting on Bryant Square; Supervisor Kaufman stated she had a letter stating no conflict of interest; as result of Prop G this document affected a public presence; maintain this is part of the public record because it was relied upon for a vote on Bryant Square; asking for justification for withholding document; this complaint is not for Bryant Square only.

Bob Planthold asked about statement that opinion was circulated through supervisor offices. Mr. Jenkel stated he was told this by the spokesman for the Mission Anti-Displacement Coalition—not a city employee.

Bob Planthold asked why a private counsel can tell Supervisor Kaufman that she can do this and no one can know why and the City Attorney opinion is ignored.

Jackie Minor stated the document is not a document that the City Attorney's Office has ever seen; Supervisor Kaufman indicated the opinion she is referring to is the opinion of a private attorney that she retained for these purposes; this is not anything the City Attorney's Office knows anything about or that we have given advise on; we are not talking about a document that was prepared or has been seen by the City Attorney's Office.

Gloria Young stated she was in attendance at the meeting; Sue Hestor asked specifically under her comments about Supervisor Kaufman's ability to participate and if she did in fact have a conflict of interest; Supervisor Kaufman indicated that she did not and clarified with the City Attorney that she had not asked the City Attorney for an opinion on that and that she had sought private counsel. Supervisor Bierman's comment was with respect to a question if there had been a Brown Act violation with respect to notification, which was called into question; Gloria Young further stated that she advised Supervisor Bierman there had not been a Brown Act violation.





Daniel Guillory stated the focus should be if the document is something someone should get access to.

Judy Appel asked Mr. Jenkel if he made a claim to the Ethics Committee. Mr. Jenkel stated no. Judy Appel asked if he had spoken to anyone who had seen the document. Mr. Jenkel stated no.

Daniel Guillory asked Jackie Minor if she had read the letter from Supervisor Kaufman. Jackie Minor read the 10/17/00 letter from Supervisor Kaufman into the record. (See attached)

Sue Cauthen asked if subject counsel letter of Supervisor Kaufman is protected by the attorney/client privilege. Jackie Minor stated that advise is subject to attorney/client privilege.

Judy Appel stated there apparently was some analysis prepared by Sue Hestor that the advice is public and would like to hear Sue Hestor's rationale.

Bob Planthold asked if Supervisor Kaufman had not voted, would it have changed the result. Sue Cauthen stated she watched the proceedings on television, and was her opinion it would not have changed the result.

Judy Appel stated the question is—is this document public.

Buck Delventhal, City Attorney's Office, stated when the City Attorney's Office gives advice to the Board of Supervisors on conflict of interest issues, it is confidential; Supervisors can choose to get counsel from other sources and they are not required by law to share that information with anybody.

Hilda Bernstein stated she has heard that no one has seen the document.

Gloria Young stated the issue does not indicate document, it indicates advice.

Motion adopted for Order to Determination to include: The Sunshine Ordinance Task Force determines that insufficient evidence was provided to show a violation of the Sunshine Ordinance relative to the facts in this petition. (Kowalczyk/Planthold) (Appel no) (Brugmann, Ray, Mallare absent)

10. Hearing of Davis/Reno, representing Local 21, AFL-CIO: Request for Compensatory Time Records by Local 21, AFL-CIO, from the Human Rights Commission

Jackie Minor excused herself and Buck Delventhal represented the Task Force on this complaint.



Janene Murtha, representing the Complainant, explained that numerous requests had been made to the Human Rights Commission beginning February 2000 for records; there have been several subsequent requests and we have received nothing; City Attorney's Office have stated by letter of October 17 that the records requested are of a public nature and would be made available to us as soon as possible; this has taken an extremely long time; after records are found to be public, the Task Force will assure compliance; the letter from the City Attorney was dated October 17 and we still have received no documents; request the Task Force take appropriate further action; request five days from today that we receive the documents.

Toni Delgado, Special Assistant and Custodian of Records for the Human Rights Commission, stated they did receive the public records request in February; there was confusion with the City Attorney's Office whether these documents were to be produced or not; subsequently the City Attorney's Office has stated these documents should be produced; the records have been located and they will be produced in the next couple of days; our department has been inundated with public records requests; unfortunately we have been fairly understaffed in the Administrative Unit; we are working with the City Attorney's Office to remedy our tardiness in public records requests; I will have the records to them by Thursday.

Vince Courtney left the meeting at this time.

Task Force concern about the number of times requests were made for these records with no response. Toni Delgado stated each time requests for the records were made, she made contact with the City Attorney's Office; she was under the impression the City Attorney's Office was to contact the Complainant.

Bob Planthold asked about staffing; if Toni Delgado was on vacation, was there persons to cover. Toni Delgado stated yes; did not know why response went unanswered during her absence.

Hilda Bernstein stated she was concerned about no response.

Judy Appel stated she would like timeline to begin running from now.

Sue Cauthen stated she would like motion to include some kind of censure and contain a deadline for submittal of records.

Motion adopted for Order of Determination: The Sunshine Ordinance Task Force finds that the Human Rights Commission has willfully failed to comply with the obligation to produce the records requested in this appeal in a timely fashion and orders the Human Rights Commission to produce the records within five days of this hearing. (Cauthen/Kowalczyk) (Brugmann, Ray, Mallare, Courtney absent)



11. Report from Sunshine Ordinance Task Force Administrator (Donna Hall)

Report submitted

12. Public Comment

No public comment

The meeting adjourned at 6:10 p.m.

Submitted by Donna L. Hall, Administrator



## Chair's Report, October 24, 2000

During the reporting period the Chair attended ex Officio, meetings of the three standing committees. Additionally she called a meeting to discuss the heavy load of hearings before the full task force and the anticipated increase from outreach and education. This meeting was attended by Judy Appel, Bob Planthold, Paul Hogan, Jackie Minor, and Donna Hall. It was noted that though the Complaint Committee's procedures state that all those requesting a hearing shall have one, the operative word in the Ordinance itself is "may". Moreover the Chair was concerned that the Task Force is not always able to positively respond to a complaint either because it is substantive or it is after the fact etc. Additionally the Chair pointed out that the purpose of the committees is to do as much of the work at that level as is possible. There was much discussion back and forth. Judy and Bob may wish to comment on that meeting. In any event Judy will have some recommendations to the Task Force at the November meeting.

I regret to say that our letters to Gerald Greene and Anita Theoharris of the Planning Department went unanswered. Donna did make follow up calls and was told by Greene's secretary that he was very busy and could not spare the time. In the interim I have received from Donna the distribution of phone calls she has received since 1/1/00.. not including calls from Departments asking for copies of the Sunshine Ordinance the City Charter etc. There were 25 calls, exclusive of call backs, further inquiries etc. Of these 25 calls 5 or 20% were related to the Planning Dept. I will ask for a meeting with Greene and Theoharris and ask Paul, Judy, Jackie and perhaps one or two others to join me.

A brief mention of Jackie's letter to me dated 10/19/2000: with regard to whether or not there are existing criteria for determining a conflict of interest, my question went to existing criteria within the office of the City Attorney. Determination on a case by case basis is to me the absence of existing criteria though I have no doubt that the Cal and ABA do have established rules.

I think it will also be helpful to know which Depts. are calling Donna to ask for information. The distribution of these calls may indicate which Depts need additional training. Donna if you aren't already tracking these calls please do.





## Annual Report suggested points

The Sunshine Ordinance Task Force was reconstituted to comply with Proposition G, the Sunshine Initiative, that was effective January 1, 2000. The new Task Force met for the first time in May 2000.

--Sunshine work progressed through the newly-hired Administrator and through the City Attorney's Office and counsel assigned to the Sunshine Ordinance Task Force.

--Office of Administrator for the Sunshine Ordinance Task Force set up office; prepared new contact information; had files transferred from Office of Administrative Services.

--Prior to the first meeting of the Task Force, concerns and complaints were addressed by the Administrator and the City Attorney's Office using existing procedures.

--City Attorney developed two parallel sets of trainings on understanding and implementing Proposition G; one for Department Heads with emphasis on addressing requests for public information; one for public bodies subject to Proposition G's jurisdiction, with emphasis on public meetings; Sunshine Ordinance Task Force members attended one or more the training sessions.

--New Sunshine Ordinance Task Force met in May 2000

--Started process of formalizing and revising procedures

--Approved by-laws and a list of Sunshine Ordinance Task Force annual responsibilities and objectives

--Set up a committee structure with three standing committees and provisions for special committees

--Rules Committee

--Public Education and Information Committee

--Complaint Committee

--Ad Hoc Committee on email communications

*Special*

*Ad Hoc*

--Heard initial report from the City Administrator on the progress of developing an index of public records as required by Proposition G, the Sunshine Initiative.

--Heard an initial report from the Supervisor of Public Records (City Attorney) regarding public record petitions for the calendar year beginning January 2000.

--Started implementing committee process of having, when possible, an issue surface through a committee for analysis and exploration before coming to the full Sunshine Ordinance Task Force.



## Civil Grand Jury Suggested Responses

### Finding 1

- a) The reconstituted Sunshine Ordinance Task Force acknowledges that in the past Annual Reports were not consistently filed. Effective Year 2000 the Sunshine Ordinance Task Force is committed to filing Annual Reports.
- b) We concur that the Grand Jury report is correct
- c) We are unaware of any requirements that have been omitted.
- d) Effective year end 2000 the Sunshine Ordinance Task Force will file annual reports.

### Finding 10

*Task*  
Send a letter to the Mayor requesting the Mayor to enforce laws that promote public access to information.

Request the Board of Supervisors review the various laws and requirements regarding making public reports much simpler, clearer and more uniform.

Request the Clerk of the Board send a yearly reminder to agencies that are required to file mandated reports with the Board of Supervisors to file the reports with the Clerk of the Board for distribution to the Board of Supervisors.

### Finding 11

Send a letter to the Mayor recommending that the Mayor remind departments to file Annual Reports with the San Francisco Public Library Government Information Center, post such reports on the departments' web site, and that web posting does not supersede the requirement that reports be filed with the San Francisco Public Library Government Information Center.

### Finding 12

Sunshine Ordinance Task Force to work to develop or clarify THE definition of a "department" as that term is used in the City Charter and ordinances.



CITY AND COUNTY OF SAN FRANCISCO



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DOCUMENTS DEPT

TO: Sunshine Ordinance Task Force  
FROM: Dorji Roberts *DR*  
Deputy City Attorney  
DATE: October 17, 2000  
RE: Report of the Supervisor of Records to the Sunshine Ordinance Task Force

FEB - 8 2001

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**Preface**

Effective January 1, 2000, the Citizens of San Francisco enacted Proposition G, the Sunshine Ordinance of 1999, to strengthen the right of the people to know what their government and those on behalf of government are doing. To help implement this policy of open government, persons who request access to records or information in the custody of City officials or employees have several options if they believe that they are entitled to records or information to which they are having difficulty gaining access. One of those options is to petition the City Attorney, as the Supervisor of Records, for a determination of whether or not the record or information sought is public, and whether it is exempt from disclosure under relevant provisions of law.

Proposition G requires that the Supervisor of Records prepare a tally and report to the Sunshine Ordinance Task Force ("Task Force") at least annually on each petition brought before the Supervisor of Records for access to records or information. This is the first such report to the Task Force, and covers all petitions brought before the Supervisor of Records between January 1, 2000 and October 1, 2000.

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## **I. Legal Requirements for Supervisor of Records' Report to Sunshine Ordinance Task Force**

The Sunshine Ordinance specifies that this report must identify for each petition (1) the record or records sought, (2) the custodian of those records, (3) the ruling of the Supervisor of Records, (4) whether a court overturned any ruling of the Supervisor of Records, and (5) whether orders given to custodians of public records were followed. The report also must summarize any court actions during the reporting period regarding petitions the Supervisor of Records has decided. At the request of the Task Force, copies of any and all rulings made by the Supervisor of Records must be made available to the Task Force. (San Francisco Administrative Code, §67.21(h)).

## **II. Tally of Petitions to Supervisor of Records**

During the nine-month period from January 1, 2000 through October 1, 2000, there were a total of thirteen (13) matters related to public meetings or access to records handled by the Supervisor of Records. Members of the public submitted ten (10) petitions directly to the Supervisor of Records under the Sunshine Ordinance during the reporting period. In addition, before the Task Force was reconstituted in May 2000 as required by Proposition G, the Task Force Administrator referred two (2) complaints to the Supervisor of Records for handling that had been submitted to the Task Force so as to avoid undue delay in processing the citizens' complaints. The Ethics Commission also referred one (1) complaint under the Sunshine Ordinance to the Supervisor of Records for handling. No ruling of the Supervisor of Records issued during the reporting period was overturned by a court.

## **III. Narrative Description of Petitions to Supervisor of Records**

This section of the report describes each petition submitted directly to the Supervisor of Records under the Sunshine Ordinance and sets forth the information required by San Francisco Administrative Code, §67.21(h). It also describes each complaint under the Sunshine Ordinance that was referred to the City Attorney's Office by the Task Force Administrator during the period when the Task Force was being reconstituted, and by the Ethics Commission. For organizational purposes, this section of the report is organized by the name of the complainant.

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**1. Francis Basa (referred by Task Force Administrator)**

**Facts of Complaint**

On or about April 14, 2000, Francis Basa e-mailed a complaint to the Administrator for the Sunshine Ordinance Task Force. At that time, the Task Force was being reconstituted as required by Proposition G, so the Task Force Administrator forwarded Mr. Basa's complaint to the City Attorney's Office for handling.

Mr. Basa's complaint relates to the April 5, 2000 regular meeting of the Board of Appeals. The Supervisor of Records obtained and reviewed a copy of the minutes from the April 5 meeting, which began at 5:30 p.m. Mr. Basa had an appeal before the Board as item 13 on the agenda for the meeting. Mr. Basa's appeal was called early, at approximately 6:30 p.m., so that the Board would have a quorum to decide the appeal because one of the commissioners was ill and was uncertain that she could stay through the entire meeting, and another commissioner was recused from hearing the appeal. The President of the Board announced at the beginning of the meeting that item 13 would be called early for these reasons.

Four persons spoke on Mr. Basa's appeal: Mr. Basa and two members of the public spoke in favor of the appeal opposing modification of a building permit and the attorney for the permit holder spoke against the appeal. The Board voted 4-0 to deny the appeal and uphold the granting of the permit modification opposed by Mr. Basa. Mr. Basa did not complain at the meeting about his appeal being heard earlier than expected, did not identify anyone who was denied an opportunity to speak on his appeal as a result of the matter being called at 6:30 p.m., nor did he request reconsideration of Board's decision. The City Attorney's Office inquired of the Board's staff what they tell persons who ask when their appeals will be heard. Staff informed the City Attorney's Office that persons are advised to show up at the beginning of the meeting, even if their matters are toward the end of the agenda, because matters are sometimes passed over or resolved quickly or, as in Mr. Basa's case, are called earlier in the agenda than expected.

**Supervisor of Records' Disposition**

On April 24, 2000, the City Attorney's Office responded to the April 14, 2000 complaint, and informed Mr. Basa that there had been no violation of the Sunshine Ordinance as a result of his appeal being heard earlier than expected during the April 5, 2000 meeting. Section 67.15(e) of the Sunshine Ordinance provides that "[t]o facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of the meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer." The President of the Board complied with this requirement. Moreover, it is the responsibility of appellants before the Board and members of the public desiring to speak on a

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particular matter to show up at the time a properly noticed meeting begins, and there was no indication that anyone desiring to speak on Mr. Basa's appeal was prevented from doing so. Mr. Basa was informed that if he had questions regarding the subject of his complaint, he should contact the City Attorney's Office or the Administrator for the Task Force.

### Litigation Related to Petition

No court action has been initiated regarding the conduct of the Board of Appeals' April 5, 2000 meeting or the City Attorney's April 24, 2000 determination that there was no violation of the Sunshine Ordinance in this particular matter.

## 2. *Roberta Caravelli*

### Facts of Complaint

On March 30, 2000, Roberta Caravelli, President of Citizen Review, telephoned a request to the Department of Building Inspection ("DBI") for disclosure of two letters sent between Mr. and Ms. Juanillo and DBI Deputy Director James Hutchinson regarding Building Inspector Rudy Pada. On March 31, 2000, Peter Burns, the DBI Spokesman and custodian of records for DBI at that time, sent a facsimile letter to Ms. Caravelli informing her that DBI had reopened its investigation of issues raised in the Juanillos' letter about Mr. Pada, and declined to disclose any documents related to the investigation under the personnel exemption set forth in the Sunshine Ordinance and California Public Records Act (San Francisco Administrative Code §67.24(c) and Government Code §6254(c)). On April 3, 2000, Ms. Caravelli petitioned the Supervisor of Records to compel the production of the two letters.

### Supervisor of Records' Disposition

On April 10, 2000,, the City Attorney's Office upheld DBI's decision declining to disclose the two letters based on an interpretation of Section 67.24(c)(7) of the Sunshine Ordinance regarding records of confirmed misconduct, and the official information privilege (Government Code §6254(k) and Evidence Code §1040). Section 67.24(c)(7) of the Sunshine Ordinance provides that "the record of any confirmed misconduct of a public employee involving personal dishonesty, misappropriation of public funds . . . and of any discipline imposed for such misconduct" is a public record. Pending the outcome of DBI's investigation, no misconduct had been confirmed. While the investigation is on-going, DBI may decline to disclose letters received from members of the public that raise allegations about DBI employees until the department has had an opportunity to investigate the allegations. The official information privilege also protects, among other things, the right of citizens to complain to their government and to provide information without public exposure that may discourage complaints. The City Attorney's Office informed Ms. Caravelli that DBI Director Frank Chiu informed the



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office that documents relating to the investigation that are not otherwise exempt from disclosure would be made available to the public as soon as the investigation is completed.

### Litigation Related to Petition

No court action has been initiated regarding Ms. Caravelli's request or the Supervisor of Records' April 10, 2000 determination that there was no violation of the Sunshine Ordinance as a result of DBI's refusal to disclose the two letters.

### 3. Dawn Clements

Dawn Clements, President and CEO of Western Select Securities, Inc. ("WSS"), brought eight petitions for access to records during the reporting period. Seven of the eight petitions related to Ms. Clements' requests for records from the San Francisco City and County Employees' Retirement System ("SFERS"), and one petition related to Ms. Clements' request for records from the Office of the Treasurer. The custodian of records for SFERS is Kay Gulbengay, SFERS Executive Assistant, 30 Van Ness Avenue, Suite 300, San Francisco, CA 94102. The custodian of records for the Treasurer's Office is Jay Banfield, Chief Assistant Treasurer, City Hall, Room 140, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. The petitions are described in chronological order based on the date of the petition to the Supervisor of Records.

#### a. *Petition of March 24, 2000 re: SFERS.*

#### Facts of Complaint

On or about January 21, 2000, Dawn Clements requested from SFERS Executive Director, Clare Murphy, "copies of all signed contracts and amendments with all of the current and former providers of investment advisory services for the Defined Benefit Plan from January 1993 to the present." On or about March 13, 2000, SFERS provided her with contracts and exhibits responsive to the request. On or about March 2, 2000, Ms. Clements sent a "deficiency notice" letter to SFERS stating that she believed that SFERS did not provide WSS with all the documents responsive to her January 21, 2000 request, and identified seventy-three documents or categories of documents she still wanted from SFERS. On or about March 13, 2000, SFERS responded to Ms. Clements' March 2, 2000 correspondence, and produced additional documents. On or about March 15, 2000, Ms. Clements sent another deficiency notice to SFERS indicating her disagreement with SFERS that her March 2, 2000 correspondence contained new or additional requests for records in follow up to her January 21, 2000 request and SFERS' responses thereto. She also disagreed with SFERS' extension of time to respond to her March 2, 2000 request to 14 days as set forth in Government Code §6253(c). On or about March 21, 2000, SFERS provided further records in response to the March 2, 2000 deficiency notice that were not included with its March 13, 2000 response, and informed Ms. Clements that SFERS

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staff continues to research, assemble and collect documents from off-site storage facilities, and would provide those records as they become available. On March 24, 2000, Ms. Clements petitioned the Supervisor of Records asserting that SFERS' responses to her records requests were incomplete, and that SFERS did not provide the records within the time required under the Sunshine Ordinance.

### Supervisor of Records' Disposition

The Supervisor of Records responded to Ms. Clements' March 24, 2000 petition, and to her petitions of March 25, March 30, April 3 and April 12, 2000, discussed below in Items 3(b)-(e), on April 17, 2000. The Supervisor of Records (1) ruled that the 14-day extension of time was authorized under Government Code §6253(c) given the volume of the original request and the follow up deficiency notice, and (2) recommended that SFERS and Ms. Clements make arrangements to let a representative of WSS come to the SFERS offices to review the records and identify any missing or additional documents because the request was broad and the department's staff limited.

### Litigation Related to Petition

On May 20, 2000, Ms. Clements initiated litigation in the Superior Court for the City and County of San Francisco against SFERS seeking a writ of mandate compelling SFERS to provide documents pursuant to her original January 21, 2000 request and subsequent deficiency notices. Western Select Securities, Inc. v. Clare Murphy, as Executive Director of the San Francisco City and County Employees' Retirement System, No. 312510. On July 20, 2000, the court denied the petition for a writ of mandate, concluding that SFERS has responded to the public records requests and made reasonable efforts to procure the requested documents as required by Section 67.21(c) of the Sunshine Ordinance and California First Amendment Coalition v. Superior Court (1998) 67 Cal.App.4th 159, 165-166. Ms. Clements has filed a notice of appeal of the trial court's decision. The record has not yet be certified and the Court of Appeal has not yet established a briefing schedule for her appeal.

### ***b. Petition of March 25, 2000 re: SFERS.***

#### Facts of Complaint

On or about March 7, 2000, Ms. Clements requested from SFERS all written requests for information and documents made to SFERS by any member of the press for the ten-year period from March 7, 1990 to March 7, 2000. On March 17, 2000, SFERS sent Ms. Clements one request from the media. On March 17, 2000, Ms. Clements sent SFERS a deficiency notice. On April 4, 2000, SFERS responded to the deficiency notice and provided four additional media requests. On March 25, 2000, Ms. Clements petitioned the Supervisor of Records asserting that SFERS' responses to her March 7, 2000 request were incomplete.

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The Supervisor of Records inquired of and was informed by SFERS that it does not have a file wherein it retains copies of public records requests from the media or other media inquiries. SFERS informed the Supervisor of Records that copies of media requests, if they are retained at all, might be in various subject files.

#### Supervisor of Records' Disposition

The Supervisor of Records responded to Ms. Clements' March 25, 2000 petition, and to her petitions of March 24, March 30, April 3 and April 12, 2000, on April 17, 2000. The Supervisor of Records concluded that, given that SFERS does not have a file of media requests, SFERS had made a good faith effort to comply with her request.

#### Litigation Related to Petition

Ms. Clements has not initiated litigation regarding the decision of the Supervisor of Records in this matter.

#### **c. *Petition of March 30, 2000 re: SFERS.***

#### Facts of Complaint

On or about March 30, 2000, Ms. Clements petitioned the Supervisor of Records regarding the January 21, 2000 public records request to SFERS and subsequent deficiency notices that are the subject of her March 24, 2000 petition, discussed above in Item 3(a). The Supervisor of Records responded to Ms. Clements' March 30, 2000 petition, and to her petitions of March 24, March 25, April 3 and April 12, 2000, on April 17, 2000.

#### Supervisor of Records' Disposition

The Supervisor of Records recommended that SFERS and Ms. Clements make arrangements to let a representative of WSS come to the SFERS offices to review the records and identify any missing or additional documents because the request was broad and the department's staff limited.

#### Litigation Related to Petition

Ms. Clements initiated litigation against SFERS seeking a writ of mandate compelling SFERS to provide documents pursuant to her original January 21, 2000 request and subsequent deficiency notices, discussed in Item 3(a), above. The court denied the writ petition and Ms. Clements has filed a notice of appeal.

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**d. Petition of April 3, 2000 re: SFERS.**

**Facts of Complaint**

On or about April 3, 2000, Ms. Clements petitioned the Supervisor of Records regarding the January 21, 2000 public records request and subsequent deficiency notices that are the subject of her March 24, 2000 and March 30, 2000 petitions, discussed above. The April 3 petition relates to a March 20, 2000 "deficiency notice" letter from Ms. Clements to SFERS requesting copies of missing exhibits to and pages from documents previously produced by SFERS pursuant to her original January 21, 2000 request. On March 29, 2000, SFERS provided Ms. Clements with a missing exhibit and missing pages from previously produced contracts pursuant to Ms. Clements' March 20 correspondence, and informed her that SFERS did not possess a signed copy of the Nicholas-Applegate Capital Management International Small/Mid Capitalization Equity Statement of Objectives, Guidelines and Procedures requested in Ms. Clements' March 20 deficiency notice.

**Supervisor of Records' Disposition**

The Supervisor of Records responded to Ms. Clements' April 3, 2000 petition, and to her petitions of March 24, March 25, March 30 and April 12, 2000, on April 17, 2000. The Supervisor of Records recommended that SFERS and Ms. Clements make arrangements to let a representative of WSS come to the SFERS offices to review the records and identify any missing or additional documents because the request was broad and the department's staff limited.

**Litigation Related to Complaint**

Ms. Clements initiated litigation against SFERS seeking a writ of mandate compelling SFERS to provide documents pursuant to her original January 21, 2000 request and subsequent deficiency notices, discussed in Item 3(a), above. The court denied the writ petition and Ms. Clements has filed a notice of appeal.

**e. Petition of April 12, 2000 re: SFERS.**

**Facts of Complaint**

On or about April 3, 2000, Ms. Clements petitioned the Supervisor of Records regarding the January 21, 2000 public records request and subsequent deficiency notices that are the subjects of her March 24, 2000, March 30, 2000, and April 3, 2000 petitions, discussed above.

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### Supervisor of Records' Disposition

The Supervisor of Records responded to Ms. Clements' April 12, 2000 petition, and to her petitions of March 24, March 25, March 30 and April 3, 2000, on April 17, 2000. The Supervisor of Records recommended that SFERS and Ms. Clements make arrangements to let a representative of WSS come to the SFERS offices to review the records and identify any missing or additional documents because the request was broad and the department's staff limited.

### Litigation Related to Petition

Ms. Clements initiated litigation against SFERS seeking a writ of mandate compelling SFERS to provide documents pursuant to her original January 21, 2000 request and subsequent deficiency notices, discussed in Item 3(a), above. The court denied the writ petition and Ms. Clements has filed a notice of appeal.

### ***f. Petition of May 30, 2000 re: SFERS.***

#### Facts of Complaint

On or about March 27, 2000, Dawn Clements requested (1) copies of written transcripts of eight specific meetings of the SFERS Retirement Board occurring during the ten-year period from June 3, 1986 to August 27, 1996, and (2) copies of audio recordings of six meetings of the SFERS Retirement Board that occurred during the seven-month period from February 11, 1997 to July 8, 1997. On or about April 19, 2000, SFERS responded to Ms. Clements by (1) providing her with four written transcripts of meetings identified in the March 27, 2000 request, and informing her that written transcripts were not made for the other four meetings because no one had requested the court reporter to produce written transcripts for those meetings, and (2) providing copies of the audio recordings for the six meetings identified in the March 27, 2000 request.

On or about April 11, 2000, Ms. Clements requested (1) copies of written transcripts for fifteen specific meetings of the SFERS Retirement Board occurring during 1994 and 1995, and (2) copies of twenty specific written documents. After extending the deadline to respond due to the voluminous nature of the request, SFERS responded on May 5, 2000. SFERS was unable to locate written transcripts for two of the meetings that took place on in 1995, and was unable to locate two of the documents requested in the April 11 public records request. On May 25, 2000, Ms. Clements sent SFERS a deficiency notice letter regarding the written transcripts for the two meetings, and stating that the minutes for the two meetings at issue indicate that transcripts were made of those regular meetings by a court reporter. On or about May 30, 2000, Ms. Clements, petitioned the Supervisor of Records seeking production of written transcripts of meetings based on her requests of March 27 and April 11, 2000.

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The Supervisor of Records inquired of SFERS whether written transcripts were made from the court reporter's records of the meetings that were the subject of the May 30, 2000 petition, and, if not, whether it possessed audio recordings for those meetings. SFERS informed the Supervisor of Records that the court reporter's records for those meetings had not been transcribed, and that SFERS does not possess the court reporter's stenographic transcripts. SFERS further informed the Supervisor of Records that it has audio recordings for the meetings for which no written transcripts were available, except one meeting in 1986, which occurred before the SFERS Retirement Board began audio recording its meetings.

#### Supervisor of Records' Disposition

On July 5, 2000, the Supervisor of Records responded to the petition by informing Ms. Clements' attorney that although stenographic records may have been made by a court reporter for the meetings at issue, no written transcripts were requested of or prepared by the court reporter for the meetings at issue. The Supervisor of Records further advised that Ms. Clements could obtain the audio recordings of the meetings for which there were no written transcripts by requesting copies from SFERS, or that she could contact the court reporters directly to arrange for transcription if they still have the stenographic records in their possession. The Supervisor of Records concluded that SFERS did not violate the Sunshine Ordinance because it did not have written transcripts for the meetings at issue.

#### Litigation Related to Petition

Ms. Clements has not initiated litigation regarding the decision of the Supervisor of Records in this matter.

#### ***g. Petition of June 2, 2000 re: SFERS.***

##### Facts of Complaint

On or about March 8, 2000, Dawn Clements requested copies of all invoices and bills sent to SFERS by current and past providers of investment advisory services for the Defined Benefit Plan for the ten-year period from February 1990 to February 2000. Following an extension of 14 days to respond to the voluminous request, on March 30, 2000, SFERS provided copies of invoices and bills sent to SFERS by all investment services providers from July 1, 1990 through the present, and informed Ms. Clements that it could not locate the requested invoices and billing records for the period February through June 1990. On or about May 10, 2000, Ms. Clements sent to SFERS a deficiency notice containing an inventory of the documents received on March 30 pursuant to her March 8 request, and a list of invoices relating to five different service providers that were not included in SFERS' March 30 response.



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On or about June 2, 2000, Ms. Clements petitioned the Supervisor of Records complaining that SFERS did not provide her with the invoices referenced in her May 10 deficiency notice to SFERS. On or about June 9, 2000, SFERS responded and addressed each specific item in the May 10 deficiency notice by providing documents listed in the deficiency notice (including sending second copies of specific invoices previously provided to her), and informing her that SFERS never received certain specified invoices or that they never existed.

#### Supervisor of Records' Disposition

On July 6, 2000, the Supervisor of Records responded to Ms. Clements' attorney that access to each document that was the subject of the June 2, 2000 petition appeared to have been resolved by the June 9, 2000 response from SFERS, but that if Ms. Clements or her attorney believed that the dispute over the documents in question was not resolved, to please contact the City Attorney's Office. Neither Ms. Clements nor her attorney has responded regarding the invoices that were the subject of this petition. The Supervisor of Records did not render a decision because the June 2 petition appeared moot.

#### Litigation Related to Petition

Ms. Clements has not initiated litigation regarding the decision of the Supervisor of Records in this matter.

#### ***h. Petition of July 21, 2000 re: Treasurer's Office.***

##### Facts of Complaint

On or about June 2, 2000, Dawn Clements requested from the Office of the Treasurer & Tax Collector a list of all active, inactive and closed accounts maintained on behalf of the City and County of San Francisco ("CCSF") for the ten-year period from July 1, 1990 to the date of the request. For each account, Ms. Clements requested the following information: (1) the internal reference number or other identification used to differentiate each bank account, (2) a description of the specific purpose of each account, (3) the date the account was opened, (4) the date the account was closed, and (5) the names of all personnel who had the authority to act on behalf of CCSF for each account and the type of authority held by each person for each account.

On or about June 15, 2000, the Chief Assistant Treasurer responded to Ms. Clements' request. He informed her that although the Sunshine Ordinance does not require a City Department to create a new record in response to a public records request, the Treasurer does maintain a spreadsheet responsive to her request, a copy of which was provided to Ms. Clements. The spreadsheet was the most current list of accounts of monies maintained on behalf of CCSF, and describes the specific purpose of each account. The Chief Assistant Treasurer's response further informed Ms. Clements that the Treasurer had no documents, other than what was

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provided, concerning any accounts that may exist or may have existed that were within the scope of her request. Dates that accounts were opened and/or closed were provided, as available, as were the names of persons within various departments from whom Ms. Clements could obtain more information regarding specific accounts. The Treasurer, however, declined to provide the specific account numbers and signatory authority information because she concluded that providing such security-sensitive information to the public would be inconsistent with her obligations under the San Francisco Charter/California Government Code. On July 21, 2000, Ms. Clements petitioned the Supervisor of Records to compel the Treasurer to obtain any missing information from its banking vendors, and to disclose the account numbers and signatory authority information.

#### Supervisor of Records' Disposition

On August 15, 2000, the Supervisor of Records responded to the petition and ruled that the Treasurer's obligation to safeguard the public fisc of the City, as mandated by relevant provisions of the San Francisco Charter, §6.102 and California Government Code §§53649 and 27000, justified her decision to withhold the account numbers and signatory authority information, and that there was no violation of the Sunshine Ordinance because the Treasurer's Office kept the withholding to a minimum as required by San Francisco Administrative Code, §67.26.

#### Litigation Related to Petition

Ms. Clements has not initiated litigation regarding the decision of the Supervisor of Records in this matter.

#### 4. John Darmanin (referred by Task Force Administrator)

##### Facts of Complaint

On or about March 28, 2000, John Darmanin, an employee of the San Francisco Fire Department, complained to the Task Force that the Fire Commission ("Commission") treated him unfairly by (1) allowing a member of the public to make derogatory comments about him at the March 9, 2000 Commission meeting during the public comment period, and (2) by not allowing him to complete his remarks at the March 23, 2000 Commission meeting. At that time, the Task Force was being reconstituted as required by Proposition G, so the Task Force Administrator forwarded Mr. Darmanin's complaint to the City Attorney's Office for handling. On April 11, 2000, the Task Force Administrator informed Mr. Darmanin by letter of the referral of his complaint to the City Attorney's Office for handling.

The City Attorney's Office obtained and reviewed copies of the transcripts from the Commission's March 9 and March 23, 2000 meetings. The substance of Mr. Darmanin's



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complaint is as follows. On March 9, the Commission allowed a member of the public to read a portion of an interview Mr. Darmanin gave to a KSFO radio personality regarding the impact of affirmative action on safety at the Fire Department. The interview text read at the March 9 meeting was accurate and concerned a matter within the Commission's jurisdiction. The Commission allowed Mr. Darmanin to immediately respond to the speaker's remarks. Section 67.15(a) of the Sunshine Ordinance requires that policy bodies such as the Commission allow public comment on matters that are within its subject matter jurisdiction. Upon hearing Mr. Darmanin's objection to the speaker's remarks, the Commission President noted that the Sunshine Ordinance provides for unrestricted public comment on matters within its jurisdiction. Mr. Darmanin was allowed to speak in excess of three minutes, which is more than the minimum required under Section 67.15(c) of the Sunshine Ordinance. Mr. Darmanin's disagreement with the substance of the comments of the previous speaker would not provide a legal basis for the Commission to refuse to allow excerpts from the radio interview to be read during the public comment period of the meeting, or to hear the speaker's commentary on those excerpts.

With respect to the March 23, 2000 meeting, Mr. Darmanin complained that he was denied an opportunity to address the Commission. The transcript from that meeting demonstrates that Mr. Darmanin was provided with and took several opportunities to address the Commission on the subject of the radio interview and other matters, and was stopped by the presiding officer after he exceeded his time limits. There was no violation of his right under Section 67.15(c) of the Sunshine Ordinance to address the Commission.

#### Supervisor of Records' Disposition

The City Attorney's Office advised the Task Force Administrator of these conclusions on May 8, 2000. On May 10, 2000, the Task Force Administrator forwarded to Mr. Darmanin a copy of the City Attorney's determination that there had been no violation of the Sunshine Ordinance.

#### Litigation Related to Petition

No court action has been initiated regarding the conduct of the Fire Commission's March 9 and March 23, 2000 meetings, or the City Attorney's May 8, 2000 determination that there was no violation of the Sunshine Ordinance as alleged by Mr. Darmanin.

#### 5. Doerte Murray (referred by Ethics Commission)

##### Facts of Complaint

On or about March 27, 2000, Doerte Murray requested records containing the following information from the Department of Building Inspection ("DBI") regarding a building at 1568 Haight Street: (1) the occupancy load for the building, (2) the conversion of a mezzanine area

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into a storage area, and (3) a sound wall. Ms. Murray was concerned that the building was exceeding its occupancy load, that the mezzanine area had not been converted to a storage area as required by DBI, and that the sound wall was not built to Building Code standards and was unsafe. On April 3, 2000, Peter Burns, DBI Spokesman and custodian of records at that time, wrote to Ms. Murray informing him that DBI was extending the time to respond under Government Code §6253(c), and would respond to the request by April 10, 2000 due to the need to search for, collect and examine voluminous records, and to search for and collect records from field facilities or other establishments that are separate from the office processing the request. Mr. Burns requested that Ms. Murray call DBI Deputy Director James Hutchinson if she had any questions.

On April 24, 2000, Ms. Murray complained to the Ethics Commission that she had not received the information she requested from DBI. In early July, the Ethics Commission referred Ms. Murray's complaint to the City Attorney's Office for handling. On July 5, 2000, the City Attorney's Office informed Ms. Murray by letter that the Ethics Commission had referred the matter, and that the City Attorney's Office would work with the new DBI Spokesman and custodian of records, Rich Rovetti, to resolve the matter and provide the documents she sought. On July 18, 2000, Mr. Rovetti (1) provided copies of permit applications and the Certificate of Final Completion documenting the load occupancy for the building, (2) informed Ms. Murray that DBI required the bar on the raised floor (mezzanine) area to be closed and converted to a storage area, and (3) informed Ms. Murray that DBI had investigated and determined that the sound wall was designed by a licensed architect, meets building code standards, and is not a safety hazard, and provided a copy of the permit application documenting its findings regarding the sound wall.

### Supervisor of Records' Disposition

The City Attorney's Office did not issue a formal ruling on whether DBI violated the Sunshine Ordinance as a result of the delay in providing the information and documents to Ms. Murray, but instead sought to get the information and documents to her as soon as possible following referral to the office.

### Litigation Related to Petition

No litigation has been initiated concerning the subject matter of Ms. Murray's complaint to the Ethics Commission.

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## **6. John Jenkel**

### **Facts of Complaint**

On April 21, 2000, John Jenkel telephoned the City Attorney's Office to request a response to "Complaint No. 11" previously submitted to the Task Force, and that the Task Force obtain independent counsel when it considers complaints concerning commercial matters. Mr. Jenkel filed numerous complaints with the Task Force in connection with his longstanding dispute with Animal Care and Control, the San Francisco Police Department, Mayor and Board of Supervisors regarding monitoring of, and permits for, horse carriage concessions on the waterfront. Complaint No. 11 raised issues that were previously raised by Mr. Jenkel during a hearing before the Task Force in 1999. The Task Force determined at that time that it did not have jurisdiction over the subject matter of Mr. Jenkel's complaints.

### **Supervisor of Records' Disposition**

On May 16, 2000, the City Attorney's Office responded to Mr. Jenkel and informed him that the Sunshine Ordinance generally provides that the public must have notice of and access to meetings of policy bodies (and limits the purposes for which a policy body may hold closed meetings), and requires disclosure of City records and information not protected from disclosure under relevant provisions of federal, state or local law. As such, the Sunshine Ordinance and the Task Force are concerned with how policy bodies conduct business, and with the disclosure of public records and information, rather than with the substantive policies and decisions of other departments that have been the focus of his complaints to the Task Force.

With respect to the request that the Task Force obtain independent counsel when considering complaints about commercial matters, the City Attorney's Office directed Mr. Jenkel to the new language in Administrative Code §67.30(a), added by Proposition G. Mr. Jenkel was advised that he could again submit this matter to the Task Force after it was reconstituted as required by Proposition G, but that renewing his complaint before the Task Force would not cure the underlying problem that the Task Force is the wrong forum to bring his grievances about substantive City policy and decisions.

### **Litigation Related to Petition**

No litigation has been initiated concerning the subject matter of Mr. Jenkel's complaint.

## **IV. Chronological Listing of Petitions to Supervisor of Records**

The following chronological listing of petitions submitted to the Supervisor of Records between January 1, 2000 and October 1, 2000, or referred to the City Attorney's Office by the

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Sunshine Ordinance Task Force Administrator or Ethics Commission during that period, reflect the dates set forth on the relevant petition or complaint, and not necessarily the later date upon which it was actually received.

| <u>Date of Petition</u> | <u>Complainant's Name</u> | <u>Department</u> | <u>Referral From</u> |
|-------------------------|---------------------------|-------------------|----------------------|
| March 24, 2000          | Dawn Clements             | SFERS             | ----                 |
| March 25, 2000          | Dawn Clements             | SFERS             | ----                 |
| March 28, 2000          | John Darmanin             | Fire Commission   | Task Force           |
| March 30, 2000          | Dawn Clements             | SFERS             | ----                 |
| April 3, 2000           | Robert Caravelli          | DBI               | ----                 |
| April 3, 2000           | Dawn Clements             | SFERS             | ----                 |
| April 12, 2000          | Dawn Clements             | SFERS             | ----                 |
| April 14, 2000          | Francis Basa              | DBI               | Task Force           |
| April 21, 2000          | John Jenkel               | SFPD et al.       | Task Force           |
| April 24, 2000          | Doerte Murray             | DBI               | Ethics Comm.         |
| May 30, 2000            | Dawn Clements             | SFERS             | ----                 |
| June 2, 2000            | Dawn Clements             | SFERS             | ----                 |
| July 21, 2000           | Dawn Clements             | Treasurer         | ----                 |

## **V. Summary of Court Actions Regarding Petitions Decided By Supervisor of Records**

There was only one lawsuit regarding petitions decided by the Supervisor of Records during the reporting period. On May 10, 2000, Western Select Securities, Inc, by its President and CEO, Dawn Clements, initiated litigation against the San Francisco Employees' Retirement System ("SFERS") seeking a writ of mandate compelling SFERS to provide documents pursuant to a public records request she made on January 21, 2000 request, and follow up requests asserting that SFERS' responses were incomplete. The on-going dispute between Ms. Clements and SFERS has been the subject of multiple petitions to the Supervisor of Records, described in Section III of this report.

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The litigation, entitled Western Select Securities, Inc. v. Clare Murphy, as Executive Director of the San Francisco City and County Employees' Retirement System, No. 312510, was filed in the Superior Court for the City and County of San Francisco. On July 20, 2000, the trial court, Judge Ronald E. Quidachay, denied Ms. Clements' petition for a writ of mandate, concluding that SFERS has responded to her requests and made reasonable efforts to procure the requested documents as required by Section 67.21(c) of the Sunshine Ordinance and California First Amendment Coalition v. Superior Court (1998) 67 Cal.App.4th 159, 165-166. Ms. Clements has filed a notice of appeal of the trial court's decision. The record has not yet been certified and the Court of Appeal has not yet established a briefing schedule for her appeal.

## **VI. Appendix of Decisions of Supervisor of Records**

Set forth as an appendix to this report are the decisions of the Supervisor of Records in the order in which they appear in Section III, the narrative description of petitions to the Supervisor of Records.



CITY AND COUNTY OF SAN FRANCISCO



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April 24, 2000

Mr. Francis A. Basa  
1650 Jackson St., #402  
San Francisco, CA 94109

**Re: Your Sunshine Ordinance complaint of April 14, 2000**

Dear Mr. Basa:

The Sunshine Ordinance Task Force is being reconstituted as required by Proposition G. The Board of Supervisors held hearings on March 23 and April 13 before the Rules Committee regarding the appointment of Task Force members, and we expect the newly formed Task Force to meet for an organizational meeting in early May. Most likely, the first meeting of the Task Force to consider hearings will occur in late May. The Task Force Administrator, Donna L. Hall, forwarded your e-mail complaint of April 14, 2000 to this office for handling to avoid undue delay.

Your Sunshine complaint relates to the April 5, 2000 Regular Meeting of the Board of Appeals. Specifically, you are concerned that your appeal, Appeal No. 00-023, which was item 13 on the agenda for the April 5 meeting, was called early, and that persons who may have desired to comment on your appeal were not present. We obtained a copy of the minutes from the April 5 meeting, a copy of which is enclosed.

Based upon our review of the minutes and the relevant provisions of the Sunshine Ordinance, we conclude that there was no violation. The reasons for our conclusion are set forth below.

First, although your appeal was called earlier than you expected, it is the responsibility of appellants and members of the public who wish to speak on a particular matter to show up at the time the meeting begins, in this case at 5:30 p.m., even if their matter is placed toward the end of the agenda. We are informed by staff of the Board of Appeals that appellants and members of the public who inquire as to what time they should show up are uniformly advised to appear at the beginning of the meeting. Your April 14, 2000 e-mail does not indicate that you were instructed otherwise. The Board's staff do not advise people to show up late if their matters appear toward the end of the agenda because matters are sometimes passed over or resolved quickly, or, as in your case, are called sooner than expected. The minutes from the April 5 meeting indicate that your appeal was called early because Commissioner Carole Cullum was ill and was uncertain about being able to sit through the entire meeting, and Commissioner John McInerney was recused from hearing the matter. Accordingly, your appeal was called at approximately 6:30 p.m. to ensure that a sufficient number of Commissioners would be available



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to decide the matter. There does not appear to be any improper motive in calling your matter and voting on the appeal at that time.

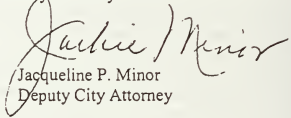
Second, the minutes indicate that four persons did address the Board regarding your appeal: yourself, the attorney for the permit holder, and two persons who spoke in favor of your appeal. Your complaint does not identify anyone who was denied an opportunity to speak, the minutes do not indicate that you objected at the meeting to having the matter called at 6:30, nor has there been a timely request for a rehearing on that basis.

Lastly, nothing in the Sunshine Ordinance prohibits the Board from entertaining an agenda item at a properly noticed meeting earlier than otherwise expected under circumstances such as these. Section 67.15(e) of the Sunshine Ordinance, enacted by Proposition G, provides that "[t]o facilitate public input, any agenda changes or continuance shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer." This provision clearly contemplates that changes in an agenda may occur, as by calling a matter early, and requires that such changes be announced at the beginning of the meeting (or as soon thereafter as the change becomes known). The minutes of April 5 meeting indicate that President Arnold Chin complied with this provision by announcing at the beginning of the meeting that your appeal, item 13, would be called early for the reasons explained above.

Accordingly, the Board of Appeal was within its powers to call your appeal at 6:30 p.m. and we conclude that there was no violation of the Sunshine Ordinance. If you have any further questions regarding the subject matter of your Sunshine complaint, please do not hesitate to contact me or Donna Hall, administrator for the Sunshine Ordinance Task Force.

Very truly yours,

LOUISE H. RENNE  
City Attorney

  
Jacqueline P. Minor  
Deputy City Attorney

cc: Board of Appeals  
Sunshine Ordinance Task Force  
Enclosure



CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

JACQUELINE MINOR  
Deputy City Attorney

DIRECT DIAL: (415) 554-4703  
E-MAIL: jacqueline\_minor@cityofsf.ca.us

April 10, 2000

Ms. Roberta Caravelli, President  
Citizen Review  
P.O. Box 31717  
San Francisco, CA 94131

**Re: Your Letter Dated April 3, 2000**

Dear Ms. Caravelli:

I am responding to your letter dated April 3, 2000 to City Attorney Louise Renne. In your letter, you request review and reconsideration of the denial by the Department of Building Inspection ("DBI") of your public records request for copies of correspondence between Deputy Director James Hutchinson and Mr. and Mrs. Juanillos.

DBI informed you in its letter dated March 31, 2000 that pending completion of an investigation of the issues raised in those letters, DBI declined to disclose the documents you seek. DBI further informed you that in the fall of 1999, DBI undertook an investigation of various issues raised by Mr. and Mrs. Juanillos and that in view of more recent developments, Frank Chiu, the Director of DBI reopened the investigation. In declining to disclose the two documents, DBI relied upon the personnel exemptions in the San Francisco Sunshine Ordinance and the California Public Records Act. (*See*, Section 67.24(c) of the Sunshine Ordinance and Section 6254(c) of the Government Code)

Section 67.24(c)(7) of the San Francisco Sunshine Ordinance provides that "the record of any *confirmed misconduct* of a public employee involving personal dishonesty, misappropriation of public funds ... and of any discipline imposed for such misconduct" is a public record. [*Emphasis added*] In this case, pending the outcome of DBI's investigation, no misconduct has been confirmed. During the pendency of a personnel investigation, DBI may decline to disclose letters received from members of the public which raise various allegations about DBI employees until the Department has had an opportunity to investigate and respond to the charges made in those letters. At the conclusion of this investigation by Director Chiu, the Director has informed us that letters from the public, the Department's responses to the public and all other public records, that are not otherwise exempt, will be made available to the public.

In addition to the personnel exemption in the Sunshine Ordinance and the California Public Records Act, Section 6254(k) of the California Public Records Act exempts from disclosure "records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including but not limited to provisions of the Evidence Code relating to

Letter to Ms. Roberta Caravelli, President

Page 2

April 10, 2000

privilege." Evidence Code Section 1040 provides that "a public entity has a privilege to refuse to disclose official information ... if ... disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice." Section 1040 of the Evidence Code, also known as the official information privilege, recognizes, among other things, the right of citizens to complain to her/his government and to provide information without unwarranted public exposure that may discourage complaints. In this case, we recognize that there has been publicity about the issues raised by Mr. and Mrs. Juanillos, and there is considerable public interest in this matter. DBI will therefore make the results of its investigation available as soon as it is completed.

Please let me know if you have any further questions about this matter.

Very truly yours,

LOUISE H. RENNE

City Attorney

A handwritten signature in dark ink, appearing to read "Jacqueline Minor", is written over the typed name and title of the Deputy City Attorney.

JACQUELINE P. MINOR

Deputy City Attorney

cc: Judy Boyajian, Deputy City Attorney

Frank Chiu, Director, Department of Building Inspection

CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney,

OFFICE OF THE CITY ATTORNEY

JACQUELINE MINOR  
Deputy City Attorney

DIRECT DIAL: (415) 554-4703  
E-MAIL: jacqueline.minor@ci.sf.ca.us

April 17, 2000

Dawn Clements, President  
Western Select Securities  
2269 Chestnut Street  
Suite 978  
San Francisco, CA 94123

**Re Public Records Requests to the San Francisco Employees' Retirement System from January through April 2000 and Appeals to the City Attorney's Office as Supervisor of Records Under the San Francisco Sunshine Ordinance**

Dear Ms. Clements:

I am responding to your "Appeals" dated March 24, 2000, March 25, 2000, March 30, 2000, April 3, 2000 and April 12, 2000 to the City Attorney's Office as the Supervisor of Records under the San Francisco Sunshine Ordinance. In order to understand more fully the issues involved, I have reviewed the public records requests submitted by WSS to SFERS since January 2000. The attached chart lists the various public records requests that have been submitted by WSS to SFERS.

There have been a large number of requests by WSS to SFERS since January of this year. In addition to the number of public records requests, many of the requests are very broad and seek information and records covering a ten-year period. For example:

1. The March 3, 2000 request seeks information about each of the SFERS accounts for all SFERS custodial banks from March 1, 1990 to March 1, 2000.
2. The March 7, 2000 request seeks copies of all written requests for information and documents made to SFERS by any member of the press from March 7, 1990 through March 7, 2000.
3. The March 8, 2000 request seeks all invoices and bills sent to SFERS by current and past providers of investment advisory services for the Defined Benefit Plan from February 1990 to February 2000.
4. The March 16, 2000 request seeks all signed contracts/agreements and amendments with all current and former providers of Alternative Investments from March 1990 to the present.
5. The March 22, 2000 request seeks each and every written International Equity Review or Report from January 1, 1990 to the present, three categories of written policy directives from January 1, 1990 to the

Letter to Page 2  
April 17, 2000

- present, and nine additional categories of various records, including policy directives, staff reports, staff asset allocation reports and Department of Labor Technical Releases from January 1, 1990 to the present.
6. The March 23, 2000 request seeks each and every monthly list of meetings conducted by all staff members of the SFERS from January 1, 1990 to the present, any and all records regarding direction of commissions by SFERS to Alpha Management from January 1, 1987 to the present, any and all records regarding calculation of the consulting fee paid to Callan from January 1, 1990 to the present, and each and every annual and quarterly recapture account commission report from January 1990 to the present.
  7. The March 29, 2000 request seeks all investment policy statements, appendices and amendments from January 1990 through January 2000, and all manger guidelines and amendments from January 1990 to March 2000.
  8. The April 4, 2000 request seeks all SFERS contracts, exhibits, and addendums with auditors and actuaries from January 1990 to the present.
  9. The April 6, 2000 request seeks copies of all contractual agreements, exhibits and addendums from January 1986 to March 1996 with Bankers Trust.

Although WSS does not provide a list of the specific requests you are asking the City Attorney's Office as the Supervisor of Records to review, the areas you appear to seek assistance with are:

1. 14 Day extension of time to respond to requests for records
2. Lists of custodial bank accounts for Bankers Trust Company
3. WSS request for copies of all written requests for information by any member of the press
4. "Deficiency Notices" dated March 2, 2000 and March 30, 2000

#### 1. 14 Day Extension of Time to Respond

In a letter dated March 15, 2000, WSS stated that it was not agreeing to SFERS' extension of time to respond to a request for records and/or a deficiency notice. Under the California Public Records Act, the time period for responding to a request may be extended by the head of an agency or her designee if the criteria set forth in Section 6253(c) of the Government Code is met. If the criteria for extension are met, the consent or concurrence of the requester is not required. In this case, given the volume of the request and the follow up deficiency notice, it was appropriate for SFERS to extend the time to respond.

Letter to Page 3

April 17, 2000

## **2. List of Custodial Bank Accounts for Bankers Trust Company**

In a letter dated April 4, 2000, SFERS informed WSS that it "does not have access to any records in the normal course of our business from which we can respond to your request for a listing of custodial bank accounts for Bankers Trust Company" and that SFERS has been informed by legal counsel that it is not required to seek the requested information from Bankers Trust. In a letter dated April 6, 2000, WSS stated that it disagreed with the opinion of legal counsel on this issue and is appealing this issue to the City Attorney's Office.

The public records laws apply to records in the custody and possession of a public agency. If the public agency does not have the records, the records are not "public records" as the term is defined in Section 6243(e) of the Government Code. SFERS is not required by state or local laws to seek documents from Bankers Trust, with whom it no longer has a contract. Dan Maguire, Deputy City Attorney for SFERS, has informed me that SFERS will again review its stored records to determine if any of the information you seek is available in SFERS files. SFERS has agreed to follow up with you as soon as practicable on this issue.

## **3. WSS Request for Copies of all written requests for information by any member of the press**

WSS made a public records request on March 7, 2000 for "all written requests for information and documents made to SFERS by any member of the press" from March 7, 1990 through March 7, 2000. On March 17, 2000, SFERS responded to this request by sending to WSS one request from the media. Thereafter, WSS sent SFERS a "deficiency notice" dated March 17, 2000. On April 4, 2000, SFERS responded to the "deficiency notice" by providing four additional media requests.

SFERS has informed me that it does not have a file wherein it retains copies of public records requests from the media or other media inquiries. SFERS informs me that copies of media requests, if they are retained at all, may be in various subject files.

A public records request that requires an agency to search a large volume of data for a "needle in a haystack" is unduly burdensome. *California First Amendment Coalition vs Superior Court*, 67 Cal.App.4<sup>th</sup> 159,166 (1998). SFERS is required to comply with requests, so long as the records sought can be located with reasonable effort. SFERS has provided WSS with copies of five media requests. Given the fact that SFERS does not have a file of media requests, SFERS has made a good faith effort to comply with your request.

## **4. Deficiency Notices Dated March 2, 2000 and March 30, 2000**

I have reviewed the deficiency notices dated March 2 and March 30, 2000. We recommend that SFERS make arrangements to let a representative of WSS come into the SFERS offices for up to two hours a day to review the records and

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY

Letter to Page 4

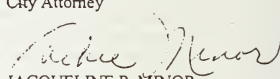
April 17, 2000

identify the missing documents. Once WSS has identified the additional records it seeks, SFERS will copy the records for WSS at a cost of 10 cents per copy. This procedure works well when a request is broad and a department's staff limited.

Please let me know if you have any further questions

Very truly yours,

LOUISE H. RENNE  
City Attorney



JACQUELINE P. MINOR  
Deputy City Attorney

cc: Buck Delventhal, Deputy City Attorney  
Dan Maquire, Deputy City Attorney

# WESTERN SELECT SECURITIES PUBLIC RECORDS REQUESTS TO SFERS

| DATE OF LETTER FROM FAWSS | REC'D BY DATE SFERS | SUBJECT                                                                                 | DEADLINE TO RESPOND              | SFERS RESPONSE   | EXTENDED DATE | STATUS |
|---------------------------|---------------------|-----------------------------------------------------------------------------------------|----------------------------------|------------------|---------------|--------|
| January 18, 2000          | January 19, 2000    | Final & corrected version/MBE/WBE Commission Reports Tapes of 1/11/00 meeting           | January 29, 2000                 | January 24, 2000 |               |        |
| January 21, 2000          | January 24, 2000    | List of current & former Providers                                                      | February 3, 2000                 | January 31, 2000 |               |        |
| March 30, 2000            | March 31, 2000      | Inventory for 3/21 response                                                             |                                  |                  |               |        |
| January 25, 2000          | January 25, 2000    | Copy of Audiotape for 1/11/00 meeting                                                   | February 4, 2000                 | January 31, 2000 |               |        |
| March 3, 2000             | March 7, 2000       | Custodial Bank Accounts & Names of SFERS staff authorizing to act on behalf of the Plan | March 17, 2000                   | March 17, 2000   |               |        |
| March 6, 2000             | March 8, 2000       | Extension agreement between SFERS & Asset Strategy 7/1/99 thru 12/31/99                 | March 17, 2000<br>March 28, 2000 | Additional Info. |               |        |



| DATE OF LETTER FROM WSS | REC'D BY DATE SFERS | SUBJECT                                                                                                                       | DEADLINE TO RESPOND | SFERS RESPONSE                                       | EXTENDED DATE  | STATUS |
|-------------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------|----------------|--------|
| March 7, 2000           | March 8, 2000       | Written requests by the press                                                                                                 | March 18, 2000      | March 17, 2000                                       |                |        |
| March 8, 2000           | March 9, 2000       | Copies of Invoices & Bills                                                                                                    | March 19, 2000      | March 17, 2000<br>March 30, 2000<br>Additional Info. | March 31, 2000 |        |
| March 16, 2000          | March 21, 2000      | All current & former Alternative Investments                                                                                  | March 31, 2000      | March 28, 2000                                       | April 14 to    |        |
| March 17, 2000          | March 23, 2000      | Request for Board Minutes starting 2/29/00<br>Copies of RFP for Outreach Consultant<br>Copy of tape for 3/21/00 Board Meeting | April 2, 2000       | March 28, 2000                                       | April 16, 2000 |        |
| March 21, 2000          | March 23, 2000      | Brokerage Commission Reports from Northern Trust Co.                                                                          | April 2, 2000       | March 28, 2000                                       | April 16, 2000 |        |
| March 22, 2000          | March 24, 2000      | 18 separate requests (#1 Annual Reports)                                                                                      | April 3, 2000       | March 28, 2000                                       | April 17, 2000 |        |
| March 23, 2000          | March 27, 2000      | 18 separate requests (#1 Annual Reports)                                                                                      | April 6, 2000       | March 28, 2000                                       | April 20, 2000 |        |



| DATE OF LETTER FROM WSS | REC'D BY DATE SFERS | SUBJECT                                                                                                                        | DEADLINE TO RESPOND | SFERS RESPONSE | EXTENDED DATE  | STATUS |
|-------------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|----------------|--------|
| March 24, 2000          | March 27, 2000      | Brokerage Commission Reports                                                                                                   | April 6, 2000       | April 5, 2000  | April 20, 2000 |        |
| March 27, 2000          | March 28, 2000      | Copies of Written Transcripts and Audiotapes                                                                                   | April 7, 2000       | April 5, 2000  | April 21, 2000 |        |
| March 28, 2000          | March 29, 2000      | Written report of 9/24/96 by Gary Hiatt and Brewster Wyckoff Report of Linda Colbert<br>Written Transcript & audiotape 9/24/96 | April 8, 2000       | April 5, 2000  | April 22, 2000 |        |
| March 29, 2000          | March 30, 2000      | Investment Policy Statements & Manager Guidelines                                                                              | April 9, 2000       | April 5, 2000  | April 23, 2000 |        |
| March 31, 2000          | April 3, 2000       | 4 requests Quarterly, semi-annual performances, reports, recommendations, et al.                                               | April 13, 2000      | April 5, 2000  | April 27, 2000 |        |
| April 3, 2000           | April 5, 2000       | Quarterly Report of Investment Commissions - period ending 12/31/99                                                            | April 15, 2000      |                |                |        |

| DATE OF<br>LETTER<br>FROM<br>WSS | REC'D BY<br>DATE SFERS | SUBJECT                                                                                                            | DEADLINE TO<br>RESPOND | SFERS<br>RESPONSE | EXTENDED<br>DATE | STATUS |
|----------------------------------|------------------------|--------------------------------------------------------------------------------------------------------------------|------------------------|-------------------|------------------|--------|
| April 4, 2000                    | April 5, 2000          | 4 Requests<br>1 <sup>st</sup> Annual Report 1999                                                                   | April 15, 2000         |                   |                  |        |
| April 5, 2000                    | April 5, 1999          | 4 Requests<br>Contractual Agreements<br>Exhibits, and Addendum<br>for Cambridge,<br>Townsend, Callan and<br>Bailey | April 15, 2000         |                   |                  |        |
| April 6, 2000                    | April 7, 2000          | Contractual Agreements<br>exhibits, addendum for<br>Northern Trust & Bankers<br>Trust                              | April 17, 2000 *       |                   |                  |        |
| April 10, 2000                   | April 11, 2000         | 9 requests (#1 audiotape<br>2/29)                                                                                  | April 21, 2000         |                   |                  |        |

CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

DORJI ROBERTS  
Deputy City Attorney

DIRECT DIAL: (415) 554-6760  
E-MAIL: Dorji\_Roberts@ci.sf.ca.us

July 5, 2000

Raymond Willis  
1970 Broadway, Suite 615  
Oakland, California 94612

Re: Dawn Clements' May 30, 2000 appeal to City Attorney's Office re: SFERS

Dear Mr. Willis:

I have received a copy of a letter dated May 30, 2000, addressed to Deputy City Attorney Buck Delventhal, from Dawn Clements, President and CEO of Western Select Securities, Inc., regarding document requests made to the San Francisco Early Retirement System. I understand that you represent Ms. Clements in pending litigation regarding a dispute over related document requests made by your client. Ms. Clements' May 30 letter is being treated as a petition to the City Attorney's Office as the supervisor of records under the Sunshine Ordinance. Accordingly, I am addressing this response to you. If you do not represent Ms. Clements with regard to the dispute summarized below, kindly inform this office so that I may forward this response directly to her.

Based upon my review of Ms. Clements' May 30, 2000 correspondence and related attachments, your client complains that she was not provided with written transcripts for San Francisco Early Retirement Board ("SFERS") meetings held on June 3, 1986, July 16, 1996, August 13, 1996 and August 27, 1996. According to correspondence from the SFERS Executive Director, SFERS has no written transcripts for the meetings in question. It appears that stenographic records may have been made by a court reporter for the meetings held on those dates, but that no written transcripts were requested of the court reporter for those specific meetings. I am informed by the SFERS Executive Assistant that SFERS does not possess the court reporter transcripts. I am further informed by the SFERS Executive Assistant that the July 16, 1996, August 13, 1996 and August 27, 1996 meetings were audio taped, and that SFERS has possession of those tapes. No audio tape was made for the June 3, 1986 meeting. Accordingly, your client may obtain the information you desire with respect to the July 16, 1996, August 13, 1996 and August 27, 1996 meetings either by requesting copies of the audio tapes from the SFERS Executive Assistant, Kay Gulbengay, 30 Van Ness Ave., Suite 3000, San Francisco, CA 94102, (415) 554-1525, or by contacting the court reporters directly to arrange for transcription and purchase of written transcripts for the meetings in question if the court reporters still have the stenographic records in their possession.

## Letter to Raymond Willis

Page 2

July 5, 2000

While there may have been some misunderstanding between Ms. Clements and SFERS regarding the meaning and existence of "written transcripts" for the June 3, 1986, July 16, 1996, August 13, 1996 and August 27, 1996 meetings, I have determined that SFERS did not violate the Sunshine Ordinance in this regard when its Executive Director, Clare Murphy, responded to your client's public records requests of March 27, 2000 and April 11, 2000 by informing her that written transcripts do not exist for those meetings.

If you have further questions regarding this matter, please contact me.

Very truly yours,

LOUISE H. RENNE

City Attorney

Dorji Roberts

Dorji Roberts

Deputy City Attorney

cc. Kay Gulbengay, SFERS Executive Assistant  
Dan Maguire, Deputy City Attorney  
Rafal Ofierski, Deputy City Attorney

File

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



LOUISE H. RENNE  
City Attorney

DORJI ROBERTS  
Deputy City Attorney

DIRECT DIAL: (415) 554-6760  
E-MAIL: Dorji\_Roberts@cl.sf.ca.us

July 6, 2000

Raymond Willis  
1970 Broadway, Suite 615  
Oakland, California 94612

Re: Dawn Clements' June 2, 2000 appeal to City Attorney's Office re: SFERS

Dear Mr. Willis:

I have received a copy of a letter dated June 2, 2000, addressed to Deputy City Attorney Buck Delventhal, from Dawn Clements, President and CEO of Western Select Securities, Inc., regarding document requests made to the San Francisco Employees' Retirement System ("SFERS"). I understand that you represent Ms. Clements in pending litigation regarding a dispute over related document requests made by your client. Ms. Clements' June 2 letter is being treated as a petition to the City Attorney's Office as the supervisor of records under the Sunshine Ordinance. Accordingly, I am addressing this response to you. If you do not represent Ms. Clements with regard to the dispute summarized below, kindly inform this office so that I may forward this response directly to her.

Based upon my review of Ms. Clements' June 2, 2000 correspondence and related attachments, your client complains that SFERS did not provide her with certain documents she referenced on page 22 of the "WSS Inventory of Invoices Received from SFERS on March 31, 2000" prepared by Ms. Clements. I also have received a June 9, 2000 letter to Ms. Clements from the SFERS Executive Director, Clare Murphy, addressing each of the requests set forth on page 22 of Ms. Clements' inventory and enclosing certain documents as identified in Ms. Murphy's June 2 letter to Ms. Clements. I believe that SFERS' June 2 response has resolved Ms. Clements' June 2, 2000 appeal to this office; however, if you or Ms. Clements believe that the dispute over this particular document request has not been resolved, please contact me.

Very truly yours,

LOUISE H. RENNE  
City Attorney

A handwritten signature in dark ink, appearing to read "Dorji Roberts".  
Dorji Roberts  
Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY

Letter to Raymond Willis

Page 2

July 6, 2000

cc. Kay Gulbengay, SFERS Executive Assistant  
Dan Maguire, Deputy City Attorney  
Rafal Ofierski, Deputy City Attorney

## City and County of San Francisco

San Francisco City and County  
Employees' Retirement System  
Office of the Executive Director

## FILE COPY

June 9, 2000

|                   |               |      |         |               |    |
|-------------------|---------------|------|---------|---------------|----|
| Post-it* Fax Note | 7671          | Date | 6/27    | # of pages    | 13 |
| To                | VORJI ROBERTS |      | From    | KAY GULBENGAY |    |
| Co./Dept.         |               |      | Co.     |               |    |
| Phone #           |               |      | Phone # | 487-7025      |    |
| Fax #             | 554-4747      |      | Fax #   |               |    |

Dawn Clements, President and CEO  
WESTERN SELECT SECURITIES, INC.  
2269 Chestnut Street, Suite 978  
San Francisco, CA 94123

Re: Response to May 10, 2000 Deficiency Notice  
*ORIGINAL Request - March 8, 2000*  
Dear Ms. Clements:

In response to your May 10, 2000 Inventory and Deficiency Notice of Documents Received, the following information is provided:

1. Missing Lewis Bailey Associates invoice for Quarter Ended March 1991 – No invoice for this quarter was received by SFERS Accounting; however, a payment of \$ 88,371.91 was made from Invoice No. 0891-874 dated August 9, 1991 (previously provided to you and inventoried in our March 30, 2000 response to your public records request), which included payment in the amount of \$ 39,577.47 for the Quarter Ended March 31, 1991. Second copy of Invoice No. 0891-874 provided herewith.
2. Missing Lewis Bailey Associates invoices for Quarters Ended June 1992 and September 1992 – No Lewis Bailey invoices for these periods exist and therefore, no payments were made for these quarters.
3. Missing Axe-Houghton Associates invoice for Quarter Ended June 30, 1996 – Copy provided herewith.
4. Missing Barclays Global Investors invoice for Quarter Ended June 30, 1998 – The term of SFERS' contract with Barclays Global Investors commenced on July 1, 1998; therefore, there was no billing for Quarter Ended June 30, 1998.
5. Missing Barclays Global Investors invoice for Quarter Ended December 31, 1999 – To date, SFERS has not received an invoice from Barclays Global Investors for the Quarter Ended December 31, 1999.
6. Missing Townsend Group invoices for Quarters Ended September 30, 1999 and December 31, 1999 – Copies of monthly invoices for the quarters provided herewith.

7. Missing Oechsle International Advisors invoice for Quarter Ended December 31, 1992 - Previously provided to you in our March 30, 2000 response to your public records request. Second copy of the invoice provided herewith.
8. Missing Cambridge Associates invoices listed in Summary of Known Deficiencies in Production of Invoices on March 30, 2000
  - Invoice No. 19009 - Previously provided to you and inventoried in our March 30, 2000 response to your public records request. Second copy of the invoice provided herewith.
  - Invoice No. 21880 - SFERS has never received this invoice.
  - Credit Memo No. 21880 - SFERS has never received this credit memo.
  - Invoice No. 25551 - Previously provided to you and inventoried in our March 30, 2000 response to your public records request. Second copy of the invoice provided herewith.

Very truly yours,



Clare M. Murphy  
Executive Director

cc: Dan Maguire, Deputy City Attorney  
Buck Delventhal, Deputy City Attorney  
Sunshine Ordinance Task Force  
Ray Willis, Attorney at Law



CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

DORJI ROBERTS  
Deputy City Attorney

DIRECT DIAL: (415) 554-6760  
E-MAIL: Dorji\_Roberts@cl.sf.ca.us

August 15, 2000

Raymond Willis  
1970 Broadway, Suite 615  
Oakland, California 94612

Re: Dawn Clements' July 21, 2000 appeal to City Attorney's Office re: Treasurer's  
Response to Request for Account Information

Dear Mr. Willis:

I have received a copy of a letter dated July 21, 2000, addressed to Deputy City Attorney Buck Delventhal, from Dawn Clements, President and CEO of Western Select Securities, Inc., regarding a June 2, 2000 document request made to Susan Leal, Treasurer of the City and County of San Francisco. I understand that you represent Ms. Clements in litigation regarding a dispute over various document requests made to the City by your client. Ms. Clements' July 21 letter is being treated as a petition to the City Attorney's Office as the supervisor of records under the Sunshine Ordinance. Accordingly, I am addressing this response to you. If you do not represent Ms. Clements with regard to the dispute summarized below, kindly let me know so that I may forward this response directly to Ms. Clements.

Based upon my review of Ms. Clements' July 21, 2000 correspondence and related attachments, your client complains that the Treasurer's did not provide her with account numbers and signatory authority information for each bank account held by the City. On or about June 15, 2000, the Treasurer's Office did provide Ms. Clements with a spreadsheet that provides the following information with respect to the City's bank accounts: (1) The name of the account; (2) the Department; (3) the name of the bank; (4) the legal authority pursuant to which the account is maintained; and (5) the names and addresses of the persons at the different departments that Ms. Clements may contact if she has questions regarding a specific account. The Treasurer's Office declined, however, to provide the account numbers or signatory authority information due to security concerns. Based upon my review of the materials provided by Ms. Clements and the Treasurer's Office, as well as my research on the Sunshine Ordinance and relevant provisions of the California Government Code and City Charter, I conclude that the Treasurer's Office lawfully withheld the account numbers and signatory authority information and that such withholding does not violate the Sunshine Ordinance. The basis of my conclusion is set forth below.

Section 6.102 of the Charter of the City and County of San Francisco imposes upon the Treasurer the responsibility to receive all monies collected by the City, and to deposit and safeguard such funds. The Treasurer's obligation to safeguard the public fisc of the City also is

Letter to Raymond Willis  
Page 2  
August 15, 2000

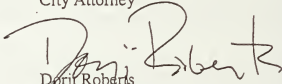
mandated by relevant provisions of the California Government Code. See e.g., Gov't Code §27000 (Custody and payment of moneys); §53649 (treasurers of cities, counties and other agencies responsible for safekeeping of money in his or her custody); §53600.3 (imposing fiduciary duties and prudent investor standard on persons investing funds on behalf of local agencies); §53600.5 (primary objective of a trustee of public funds is to safeguard principal).

The Treasurer has determined that making the account numbers and signatory authority information relating to each account available (unlike the general descriptions and other information on each account already provided to Ms. Clements), poses significant security risks as to the public funds on deposit in those accounts. Such determination is placed within her sound discretion by provisions of the San Francisco Charter and state law. I have concluded that the Treasurer's decision to withhold the information was a lawful exercise of her discretion and consistent with her legal duty to safeguard the public fisc of the City. Accordingly, I conclude that the Treasurer lawfully withheld the account numbers and signatory authority information and kept the withholding to a minimum as required by Section 67.26 of the Sunshine Ordinance.

If you have any questions regarding this matter, please do not hesitate to call me.

Very truly yours,

LOUISE H. RENNE  
City Attorney



Dorji Roberts  
Deputy City Attorney

cc. Susan Leal, Treasurer  
Jay Banfield, Chief Assistant Treasurer  
Buck Delventhal, Deputy City Attorney  
Supervisor of Records File

CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

DORJI ROBERTS  
Deputy City Attorney

DIRECT DIAL: (415) 554-6760  
E-MAIL: Dorji\_Roberts@ci.sf.ca.us

May 8, 2000

Donna L. Hall, Administrator  
Sunshine Ordinance Task Force  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4683

Re: Complaint of John Darmanin

Dear Ms. Hall:

John Darmanin alleges that the Fire Commission treated him unfairly by: (1) allowing another member of the public to make derogatory comments about him at the March 9, 2000 Commission meeting, and, (2) by not allowing him to complete his remarks at the March 23, 2000 meeting. We conclude that the Fire Commission acted properly under the Sunshine Ordinance on both occasions.

### INTRODUCTION

On March 9<sup>th</sup>, the Commission allowed a member of the public to read a portion of an interview Mr. Darmanin gave to a radio personality regarding safety at the Fire Department. The interview text is accurate and concerns a matter within the Commission's jurisdiction. It was not unfair to Mr. Darmanin for the Commission to hear the interview text. The Commission allowed Mr. Darmanin to respond to the speaker's remarks.

On March 23<sup>rd</sup>, Mr. Darmanin twice addressed the Commission for public comment. Both times he reiterated his objections to the March 9<sup>th</sup> testimony. Although the Commission allowed him to speak both times, he was ruled out of order on the second occasion when his comments exceeded the allowable time, became repetitive, and when he admitted that he was only commenting to emphasize his earlier position. Other speakers were waiting. The Commission President properly halted Mr. Darmanin when he exceeded the three minute time limit the second time he spoke.

Letter to Donna L. Hall, Administrator  
Page 2  
May 8, 2000

#### A. THE COMMISSION ACTED PROPERLY AT THE MARCH 9<sup>TH</sup> MEETING.

During the public comment period at the March 9<sup>th</sup> meeting, a speaker read excerpts from the text of an interview of Mr. Darmanin that had aired on radio station KSFO. (Tr. pp. 30-31).<sup>1</sup> During the interview excerpt heard by the Commission, Mr. Darmanin responded to the interviewer's request for an "affirmative action horror story." He expressed alarm that the San Francisco airport had "minorities on many levels; affirmative action where the airport director being openly gay, with the budget analyst a black female as well as an Asian male, and now a Fire Chief in San Francisco appointed by the first black mayor." (Interview Transcript, p.3). According to the interview text, Mr. Darmanin continued responding to the interviewer's questions regarding safety by stating that "without a doubt, it's gone down." (Interview Transcript, p.3).

The March 9<sup>th</sup> speaker concluded his remarks by stating that, "[a]s an African-American member of this department, as a gay member of this department, as a current participant in the administration of this department, to have views like this is weary. And to have someone with those views constantly coming before the Commission is weary for me and it clearly sets before me a person's motivations and agenda. Thank you very much." (Tr. p.30). Mr. Darmanin challenges this entire testimony as "unfair" in his complaint to the Sunshine Ordinance Task Force.

When the speaker finished his remarks, the Commission President noted that the First Amendment to the Constitution granted both the speaker and Mr. Darmanin a right to speak, even to "say things that might be regrettable." (Tr.p.32). Mr. Darmanin then spoke to object that the Commission had allowed the interview to be read, and had characterized his interview remarks as "regrettable." He claimed that the text was inaccurate, and that the comments were a personal attack on him. (Tr. p.32). He spoke at length in his own defense about the speaker's remarks and also spoke about his ongoing lawsuit against the Department and his continuing concerns about safety. (Tr. pp. 32-36). The Commission allowed Mr. Darmanin to speak far longer than three minutes on this issue.

The Sunshine Ordinance requires the Commission to allow for public comment on matters that are within the Commission's subject matter jurisdiction. Admin.Code § 67.15(a). Upon hearing Mr. Darmanin's objections, the Commission President noted that the Sunshine Ordinance provides for "unrestricted" public comment. Mr. Darmanin's comments from the radio interview about safety in the Fire Department clearly are matters within the Commission's jurisdiction irrespective of the personal opinions of the Commission members or speakers at the March 9, 2000 meeting. Accordingly, Mr. Darmanin was not treated improperly under Section §67.15(c) of the Sunshine Ordinance because he was allowed to speak for more than three minutes. His disagreement with the substance of the comments of the previous speaker would

<sup>1</sup> The City Attorney requested the Fire Commission Secretary to prepare typed transcripts from the tapes of the Commission Meeting. Portions of the transcripts for each date are attached for the Task Force's use and cited herein as "(Tr. p.n)."

Letter to Donna L. Hall, Administrator  
Page 3  
May 8, 2000

not justify the Commission in refusing to allow excerpts from the radio interview to be read at public comment, or to hear the speaker's commentary on those excerpts. Indeed, any attempt to prevent the previous speaker from commenting for up to three minutes would itself have been a violation of the Sunshine Ordinance.<sup>2</sup>

Mr. Darmanin cannot claim that it was unfair to air his publicly expressed opinion why Fire Department safety has declined. The text of the radio interview is not confidential or secret; nor is it inaccurate. In pursuit of a current lawsuit against the City, Mr. Darmanin signed an affidavit (a public document) swearing under penalty of perjury that the same interview text heard by the Commission is "appears to be largely accurate," listing some minor errors. (Ex. 1.) The Commission promptly allowed Mr. Darmanin an opportunity to respond and to correct any misstatements made at the March 9, 2000 meeting, or to further explain his opinion. The Commission acted properly under the Sunshine Ordinance with respect to the public comment period at its March 9<sup>th</sup> meeting, and Mr. Darmanin's complaint that he was treated unfairly should be denied.

#### **B. THE COMMISSION ACTED PROPERLY AT THE MARCH 23<sup>RD</sup> MEETING.**

Mr. Darmanin's claim that he was denied an opportunity to address the Commission on March 23<sup>rd</sup> is belied by the transcript. He was provided with and took several opportunities to address the Commission on the same issue, and was stopped only after he exceeded his time limits.

On March 23<sup>rd</sup>, on the question of approval of the minutes, Mr. Darmanin expressed his objections that the Commission had previously heard the radio interview. (Tr. pp. 2-5). Mr. Darmanin then requested that several items be taken off the consent calendar and addressed the Commission for a lengthy time. (Tr. pp. 8-18). Mr. Darmanin also addressed safety issues and other matters during the public comment period. (Tr. pp. 29-31). During his last series of remarks, Mr. Darmanin began speaking about a fight he had had with another firefighter some time before, and claimed that the Fire Chief had attempted to tamper with a witness. (Tr. p. 31). Mr. Darmanin stated that he raised this story "to show you how improper it was for you to allow [testimony about the radio interview]." (Tr. pp. 31, 32). Finally, after one Commissioner noted that the issue had already been addressed by Mr. Darmanin earlier in the meeting, and following a lengthy exchange, Mr. Darmanin was ruled out of order. (Tr. p. 32).

Mr. Darmanin's remarks during the public comment period were made to emphasize his already-stated objections to public comment about the radio interview. This was an issue that the Commission had already heard at the March 9<sup>th</sup> meeting and earlier at the same meeting on March 23<sup>rd</sup>. Mr. Darmanin spoke for over three minutes. Under the Sunshine Ordinance, a speaker is entitled to neither unlimited time, nor an unlimited number of times to raise the same

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<sup>2</sup> Following Mr. Darmanin's remarks the Chief of the Department clarified for the record that the initial speaker, also a member of the Department, was not in uniform and was not speaking on behalf of the Department. (Tr. p. 34).

Letter to Donna L. Hall, Administrator

Page 4

May 8, 2000

issue. The Commission President properly ruled that Mr. Darmanin was out of order, and his claim should be denied.

If there is anything else the Sunshine Ordinance Task Force would like regarding this matter, please do not hesitate to contact me.

Very truly yours,

LOUISE H. RENNE  
City Attorney

  
Dorji Roberts  
Deputy City Attorney

encl.

CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

JACQUELINE P. MINOR  
Deputy City Attorney

DIRECT DIAL: (415) 554-4703  
E-MAIL: jacqueline\_minor@ci.sf.ca.us

July 5, 2000

Doerte Murray  
526 Clayton Street  
San Francisco, Ca 94117

**Re: Sunshine Ordinance Complaint to the San Francisco Ethics Commission**

Dear Ms. Murray:

I am writing to advise you that your Sunshine Ordinance complaint to the San Francisco Ethics Commission regarding a request to DBI for records has been referred to me for handling. I will be reviewing your complaint with DBI and a response will be sent to you within a week. Please also note that Rich Rovetti is now the Department spokesperson and coordinates responses to public records requests. Rich and I will work together to resolve this matter. I apologize for the delay you have experienced in obtaining the records you seek. In the meantime, if you have any questions, please call me directly.

Very truly yours,

  
JACQUELINE P. MINOR  
Deputy City Attorney

cc: Rich Rovetti, Department of Building Inspection



CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

JACQUELINE P. MINOR  
Deputy City Attorney

DIRECT DIAL: (415) 554-4703  
E-MAIL: jacqueline\_minor@ci.sf.ca.us

August 1, 2000

MEMORANDUM

TO: San Francisco Ethics Commission  
FROM: Jacqueline Minor   
Deputy City Attorney  
RE: Doerte Murray Sunshine Complaint to the Ethics Commission

Attached is the response from the Department of Building Inspection to the Ethics Commission Sunshine Ordinance complaint from Doerte Murray at 526 Clayton Street, San Francisco. Please let Rich Rovetti, Public Information Officer for DBI, or me know if you have any further questions about this matter.

cc: Claire Sylvia, Deputy City Attorney, w/o attachments





## DEPARTMENT OF BUILDING INSPECTION

City & County of San Francisco

1660 Mission Street, San Francisco, California 94103-2414

July 18, 2000

Doerte Murray  
526 Clayton Street  
San Francisco, CA 94117

Re: Sunshine Ordinance Complaint to the San Francisco Ethics Commission

Dear Ms. Murray:

I am writing in response to your request that was forwarded to my office through Jackie Minor, Deputy City Attorney, requesting the Department respond to your March 27, 2000 letter concerning 1568 Haight Street.

The Public Records Act and the San Francisco Sunshine Ordinance require the Department of Building Inspection to make available to any person a copy of an "identifiable record or records" in its possession, unless the record is specifically exempt from disclosure. (Govt. Code Section 6253 (b).) The City's obligation under the Sunshine Ordinance, like the Public Records Act, is to produce public records in its custody. (S.F. Admin. Code Section 67.21 (a).) There is no requirement that a department construct a document to meet the specifications of a request. If a document does not exist, the law does not require a department to create a document. Similarly, the Sunshine Ordinance does not require a Department to respond to interrogatories. If a document exists that answers the questions presented, the Department must produce the document. If however, no such document exists, under the public records laws, the department is not required to answer the interrogatory.

With regard to your first item, please find enclosed a copy of permit application # 98221606 and #9923398, along with a copy of the Certificate of Final Completion documenting an A-3 use of this property. As to your second issue, the Department required that the bar on the raised floor area be closed and converted to storage only. Lastly, the Department determined that the sound wall was designed by a licensed architect and meets the Building Code standards. It is the Department's determination that the sound wall is not a safety hazard. Please see attached permit application # 9710704 documenting our finding.

If I can be of further assistance please feel free to contact me at 558-6448.

Sincerely,

RICH ROVETTI  
Public Information Officer

CC: Frank Chiu, Director  
Jim Hutchinson, Deputy Director  
Jackie Minor, Deputy City Attorney



CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

DORJI ROBERTS  
Deputy City Attorney

DIRECT DIAL: (415) 554-6760  
E-MAIL: Dorji\_Roberts@ci.sf.ca.us

May 16, 2000

Mr. John Jenkel  
3325 Highway 116 North  
Sebastopol, California 95472

Re: Sunshine Ordinance Complaint No. 11

Dear Mr. Jenkel:

When we spoke on the telephone on Friday, April 21, 2000, you informed me that you desired a response to your request that the Sunshine Ordinance Task Force ("Task Force") obtain independent counsel when it "considers complaints concerning commercial matters" as set forth in the above-referenced complaint.

As a preliminary matter, you have submitted a number of complaints regarding the treatment and condition of horses, the granting and monitoring of horse carriage concessions, amendments to Police Code §507, and related matters. It is clear from the voluminous materials on file with the Task Force that you feel passionately about these issues; however, it appears that you are under an mistaken impression about the purpose of the Sunshine Ordinance and the role of the Task Force.

Generally, the Sunshine Ordinance provides that the public must have notice of and access to meetings of "policy bodies" (and limits the purposes for which a policy body may hold closed meetings), and requires disclosure of City records and information not protected from disclosure under relevant provisions of federal, state or municipal law. As such, the Sunshine Ordinance and the Task Force are concerned with how policy bodies operate rather than with matters of substantive policy. The City Attorney's Office has sent several written responses to your prior complaints explaining that the focus of Sunshine Ordinance is on public access to the policymaking process and disclosure of public records and information. The Task Force has no authority to direct the substantive policies established by or decisions of the officials and agencies that have been the focus of your complaints (e.g., SFPD, AWC, Mayor and Board of Supervisors).

With respect to your specific request in Complaint No. 11 that the Task Force obtain independent counsel when considering complaints about commercial transactions, please be advised that, with the enactment of Proposition G, the voters amended the Sunshine Ordinance to add the following provision to Administrative Code §67.30(a):

Letter to Mr. John Jenkel

Page 2

May 16, 2000

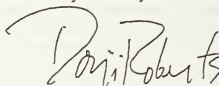
The Sunshine Ordinance Task Force shall, at its request, have assigned to in [sic] an attorney from within the City Attorney's Office or other appropriate City Office, who is experienced in public-access law matters. This attorney shall serve solely as a legal advisor and advocate to the Task Force and an ethical wall will be maintained between the work of this attorney on behalf of the Task Force and any other person or Office that the Task Force determines may have a conflict of interest with regard to the matters being handled by the attorney.

The above-quoted provision provides that the Task Force may request an attorney from the City Attorney's Office and, further, that a due process wall will be maintained when the Task Force determines that a conflict may exist. Neither the Sunshine Ordinance nor any policy of the Task Force requires the assignment of independent counsel for all commercial matters.

We understand that you may not be satisfied with this response, and therefore advise you that you may again submit this matter to the Task Force as you deem appropriate. The Task Force is being reconstituted as required by Proposition G. On April 17, 2000, the Board of Supervisors approved recommendations for appointments to the Task Force. The newly formed Task Force will hold its first regular meeting on May 23, 2000. We believe, however, that resubmitting your complaint to the Task Force will not cure the underlying problem that you have selected the wrong forum to bring your grievances about substantive City policy and decisions.

Very truly yours,

LOUISE H. RENNE  
City Attorney



Dorji Roberts  
Deputy City Attorney

cc. Administrator, Sunshine Ordinance Task Force

FILE: Sunshine Ordinance

Board of Supervisors  
City and County of San Francisco



BARBARA KAUFMAN  
Member

October 17, 2000

Ms. Hilda Bernstein, Chair  
Ms. Judy Appel, Chair, Complaint Committee  
Sunshine Ordinance Task Force  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 409  
San Francisco, CA 94102

Re: Sunshine Ordinance Task Force Complaint #15

Dear Ms. Bernstein and Ms. Appel:

I have received your request that I send a representative to the October 24, 2000 meeting of the Sunshine Ordinance Task Force. I respectfully decline to appear myself or to send a representative to this meeting. As I have already informed the Task Force, via its City Attorney, Jackie Minor, I have nothing to disclose to the Task Force regarding this complaint. I received advice from private counsel regarding my participation in the matter referenced by the complaint and such advice is subject to attorney-client privilege.

Sincerely,

A handwritten signature in black ink that reads "Barbara Kaufman".

Barbara Kaufman

c: Donna Hall, Sunshine Ordinance Task Force Administrator



**Sunshine Ordinance Task Force**



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**RULES COMMITTEE  
OF THE  
SUNSHINE ORDINANCE TASK FORCE**

**MINUTES**

**Tuesday, October 17, 2000  
5:30 p.m.  
City Hall, Hearing Room 421**

**Committee Members**

Bob Planthold, Chair  
Tuesday Ray  
Ted Kowalczyk

**Roll Call**

All present

1. Minutes of September 19, 2000

Approved

2. Annual Report Points

Approved draft suggestions for Annual Report. (See attached report)

3. Grand Jury Report

Approved Draft Suggestions for response to Civil Grand Jury findings.  
(See attached report)

4. Public Comment

Alan Nicholson commented on the Civil Grand Jury findings.

Next regular meeting November 21; Rules Committee to consider a Special Meeting  
November 14 or 16.





Meeting adjourned at 6:50 p.m.

Submitted by Donna L. Hall, Administrator



**Sunshine Ordinance Task Force**



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**DOCUMENTS DEPT.**

**SUNSHINE ORDINANCE TASK FORCE**

**AGENDA**

**Tuesday, November 28, 2000**

**4:00 p.m.**

**City Hall, Room 408**

**NOV 27 2000**

**SAN FRANCISCO  
PUBLIC LIBRARY**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczyk          |            |                        |

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of October 24, 2000 (5 min)  
Action item: Shall the minutes be approved?
2. Report from Chair (Hilda Bernstein) (5 min)  
Discussion item
3. Report from Ad Hoc Committee regarding City Email Policy (Paul Hogan) (10 min)  
Action Items: Shall the recommendations from the Ad Hoc Committee regarding City Email Policy be accepted?  
Draft letters to Mayor's Office and Planning Department  
Order of Determination regarding Nick Pasquariello request of email from Mayor's Office.  
Email policy reminder memo (from City Attorney)

4. Report from Rules Committee (Bob Planthold, Chair) (10 min)

Action items: Shall the recommendations from the Rules Committee be accepted?

Draft Annual Report

Sheriff Department Civil Grand Jury Recommendations

Next meeting of Rules Committee December 12, 2000

5. Report of Public Education and Information Committee (Paul Hogan, Chair) (10 min)

Discussion and possible action item

Next meeting of Public Education & Information Committee December 7

6. Report of Complaint Committee (Judy Appel, Chair) (10 min)

Action items: Shall the recommendations from the Complaint Committee be accepted?

Corrigan complaint

Recommended changes to Complaint Committee Procedures

Next meeting of Complaint Committee December 14

7. Report from Sunshine Ordinance Task Force Administrator (Donna Hall) (5 min)

Discussion item

8. Public Comment (20 min)

## **ADJOURNMENT**

**Next Meeting (Special) 12/18/00**

**Regular Meeting of December 26 cancelled**

2

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
TUESDAY THROUGH FRIDAY, ROOM 409, SUNSHINE ORDINANCE TASK  
FORCE OFFICE**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at Donna\_Hall@ci.sf.ca.us.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>



F  
88  
2  
/28/00

Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-7854  
TDD/TTY No. 544-5227

**SUNSHINE ORDINANCE TASK FORCE** DOCUMENTS DEPT.

Tuesday, November 28, 2000

4:00 p.m.

City Hall, Room 408

FEB - 8 2001

SAN FRANCISCO  
PUBLIC LIBRARY

**MINUTES**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczuk          |            |                        |

**Roll Call**

Present: All present except Judith Appel, Tuesday Ray, Ted Kowalczuk, Gloria Young.  
(Robert Planthold entered the meeting after Item 2)

Chair Hilda Bernstein introduced new member Marie-Lorraine Mallare. Chair stated Marie-Lorraine Mallare has been appointed to the Public Education & Information Committee.

**1. Approval of Minutes of October 24, 2000**

Motion adopted approving minutes. (Guillory/Hogan) (Appel, Ray, Kowalczuk, Planthold absent)

**2. Report from Chair**

Chair Hilda Bernstein read report.

Chair submitted a letter, received today, addressed to the Chair from Louise Renne, City Attorney. Bruce Brugmann requested the substance of this letter be placed on the next regular meeting of the Task Force. Bruce Brugmann to provide copy to the Task Force of the Bay Guardian article of November 8, 2000 regarding conflict of interest.





Chair stated she would request a representative from the City Attorney's Office to be present at the next meeting, either Louise Renne, or someone empowered to speak for her, regarding the conflict of interest letter.

Chair stated she was still attempting to coordinate a meeting with the Planning Department. Regarding the November 10, 2000 letter received Gerald Green, Director of Planning and Anita Theoharis, President of the Planning Commission, Vince Courtney stated the Planning Department needed to be aware the Task Force was serious about meeting with them and discussing noticing procedures.

Under public comment portion of the Chair Report, Gloria Tulanowski stated she did not receive copies of the November 10, 2000 letter addressed to the Task Force from Gerald Green, Director of Planning and Anita Theoharis, President of the Planning Commission until today. Gloria Tulanowski stated she did not agree with portions of the letter. Gloria Tulanowski stated she also did not receive copies of the letters to Mr. Green and Ms. Theoharis requesting a meeting; requested copies of letters should go to her and the Haight-Divisadero Neighbors & Merchants Association; requested her complaint be verified in writing. Chair Bernstein suggested Gloria Tulanowski send a copy of the November 10 letter to the President of the Haight-Divisadero Neighbors & Merchants Association.

Sue Cauthen suggested Gloria Tulanowski confirm with the Planning Department that the Haight-Divisadero Neighbors & Merchants Association is listed with the Planning Department to receive notices. Gloria Tulanowski stated the Planning Department is very aware of their organization. Vince Courtney suggested a copy of the registration with the Planning Department be sent to the Task Force.

Bruce Brugmann stated since the letter was aimed at her group, the group take the letter and respond with it point by point; suggested the Complaint Committee consider a policy of sending all communications regarding complaints to the complainants. Vince Courtney stated if the complainant had had this November 10, 2000 correspondence, they would have been familiar with the issue.

Bob Planthold entered the meeting at this time.

### 3. Report from Ad Hoc Committee regarding City E-mail Policy

Chair Paul Hogan stated a response had been received from the LAN Manager for the Mayor's Office stating they were unable to locate the e-mail in question dated November 1, 1999.

Motion adopted approving the draft letters to be sent to Bevan Dufty of the Mayor's Office of Neighborhood Services and to Hillary Gitelman, Planning Department regarding the e-mail that was the subject of Mr. Nick Pasquariello's complaint. (Hogan/Planthold) (Appel, Ray, Kowalczyk absent)



Motion adopted approving Order of Determination regarding the July 7, 2000 Complaint of Nick Pasquariello requesting a copy of an email sent to the Mayor's Office of Neighborhood Services by the San Francisco Planning Department: (Hogan/Planthold) (Appel, Ray, Kowalczyk absent)

Order of Determination: The Sunshine Ordinance Task Force is unable to make a determination that the subject e-mail requested in this petition was in fact a public document because that e-mail no longer existed at the time of the complaint. At the same time, while insufficient evidence existed to indicate that destruction of this e-mail was improper, this complaint showed the need for a citywide policy on e-mail public record retention. The Sunshine Ordinance Task Force will therefore take the following actions in response to this petition:

(1) To send a letter to Mr. Bevan Dufty of the Mayor's Office of Neighborhood Services, and a letter to Ms. Hilary Gitelman, Planning Department, stating that they should be cognizant of the fact that, until further clarification is communicated regarding e-mail policy, an e-mail message may hold the same significance as a written document, and that significance should be considered carefully before the e-mail is deleted.

(2) Request the assistance of the City Attorney in clarifying the City's policy regarding retention of e-mail records, and sending a memorandum to city personnel regarding this policy.

Regarding the e-mail policy reminder memo, Bruce Brugmann asked if there was any way to find out if someone has a model e-mail retention policy. Paul Hogan stated he would look into this matter.

Vince Courtney asked about the memo having a blank space as to whom the memo is addressed. Jackie Minor stated the Complaint Committee had discussed possibly sending to all employees. The City Attorney's Office does not have capability to do that; the Task Force can address that issue of distribution. Marie-Lorraine Mallare suggested the memo be distributed through paychecks.

Bruce Brugmann suggested a line be added to the letters that this is not a closed issue and the Task Force would appreciate suggestions. Paul Hogan stated we most likely cannot add to these two letters; however would keep the suggestion open to future letters.

Vince Courtney would like to see a finalized version of the memo.

Motion adopted approving the draft language of the memo and to send it to all city employees in whatever means is most efficient determined by the Administrator as soon as possible. Motion withdrew.



Vince Courtney stated he would like to amend the motion to send the memo to the Public Education & Information Committee to publish. Paul Hogan stated the Public Education & Information Committee is already empowered to get information out to the public. Marie-Lorraine suggested we add City and County of San Francisco rather than City of San Francisco. Paul Hogan suggested we send as widely as possible, possibly through e-mail.

Daniel Guillory suggested the item of distribution be discussed at the next Public Education & Information Committee.

Motion adopted approving the Retention of E-mails Memorandum draft and send to all City employees; Administrator to find way to distribute as widely as possible; change City of San Francisco to City and County of San Francisco. (Hogan/Planthold) (Appel, Ray, Kowalczyk absent)

Gloria Tulanowski spoke during public comment regarding not having received copies of letters to and from the Planning Department.

Adrian Varnedoe spoke during public comment regarding Tenderloin Task Force meeting at Police Station and asked about posting. Administrator to follow up with Mr. Varnedoe.

4. Report from Rules Committee

Draft Annual Report

Motion adopted approving the Draft Annual Report as prepared by the Rules Committee. (Planthold/Hogan) (Appel, Ray, Kowalczyk absent)

Sheriff Department Civil Grand Jury Recommendations

Motion adopted approving the Rules Committee recommendations in response to the Sheriff Department Civil Grand Jury Recommendations. (Planthold/Cauthen) (Appel, Ray, Kowalczyk absent)

5. Report of Public Education and Information Committee

Oral report given by Paul Hogan, Chair of the Public Education & Information Committee; public information will be distributed to the community; are meeting with Department of Information & Technology regarding placing information on the Sunshine Ordinance Task Force website.

6. Report of Complaint Committee



Judy Appel, Chair of the Complaint Committee, stated the Committee was working on an update to the Public Complaint Procedure.

Gloria Tulanowski spoke during public comment offering comments regarding the Complaint Committee of the Task Force.

Complaint of James Corrigan regarding comment from Supervisor and inconsistency of time limits for public comment.

Motion adopted approving Order of Determination of James Corrigan as recommended by the Complaint Committee. (Guillory/Hogan) (Appel, Ray, Kowalczyk absent)

Order of Determination: The Sunshine Ordinance Task Force determined the Task Force did not have jurisdiction over the comment made to Mr. Corrigan by Supervisor Bierman at a Board of Supervisor's Finance and Labor Committee meeting.

The Sunshine Ordinance Task Force determined the Task Force did have jurisdiction over the time-limit issue. This item has been scheduled to be addressed in conjunction with another petition. The Sunshine Ordinance Task Force will set a meeting with a representative from Supervisor Newsom's office (Supervisor Newsom has offered to look into this matter) and the Clerk of the Board to discuss the policy of the Board of Supervisors' time limits for public comment.

A hearing on Mr. Corrigan's complaint will not be held at this time. Mr. Corrigan will be kept advised of the progress of the time-limit issue.

7. Report from Sunshine Ordinance Task Force Administrator

Vince Courtney expressed opinion minutes reflect more detail. If a person on the Task Force wants something specifically included in the minutes, the minutes would reflect that.

Bruce Brugmann expressed opinion that whenever complaints are received, the complaints be in the Task Force agenda packets as they come in; every complaint should go to the Task Force; this is a policy point, should come in the packet to the Task Force. Would like this on the agenda for next time. When complaints come in to the Task Force the Task Force should see them.

Chair stated this item would go to the Rules Committee for recommendation to the Task Force.





8. Public Comment

Gloria Tulanowski spoke during public comment regarding content of minutes.

The meeting adjourned at 6:00 p.m.

Donna L. Hall, Administrator



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SF  
/19/00  
special  
/26/00  
canceled

Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 409  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-7854  
TDD/TTY No. 544-5227

**SUNSHINE ORDINANCE TASK FORCE**  
**SPECIAL MEETING**  
**(And Cancellation of Meeting December 26, 2000)**

**AGENDA**

**Tuesday, December 19, 2000**  
**4:00 p.m. City Hall, Room 408**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczuk          |            |                        |

**Roll Call**

DOCUMENTS DEPT.

**Agenda Changes**

DEC 15 2000

1. Approval of Minutes of November 28, 2000 (5 min)

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Action item: Shall the minutes be approved?

2. Report from Chair (Hilda Bernstein) (5 min)

Discussion item

3. Report from Rules Committee (Bob Planthold, Chair) (10 min)

Action item: Shall the Task Force reaffirm its present procedure for transmission of complaints.

Input from Complaint Committee

Next regular Rules Committee meeting: January 9, 2000

4. Report from Complaint Committee (Judy Appel, Chair) (10 min)

Action item: Shall the recommendations of the Complaint Committee be adopted?

Dawn Clements Complaint  
Harry Jamerson Complaint  
Amendments to Public Complaint Procedure

Next meeting of Complaint Committee January 11, 2000.

5. Report of Public Education & Information Committee (Paul Hogan, Chair)

Discussion item

Next Regular Meeting of Public Education & Information Committee meeting:  
January 4, 2000

6. Joint hearing of Dawn A. Clements and Harry Jamerson regarding violation of the Sunshine Ordinance by the Human Rights Commission

Action item: Shall an Order of Determination be made on the complaints submitted by Dawn A. Clements and Harry Jamerson?

7. Report of Administrator (Donna Hall) (5 min)

8. Public Comment (20 min)

**ADJOURNMENT**

**Next Regular Meeting January 23, 2001, 4:00 p.m.**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
TUESDAY THROUGH FRIDAY, ROOM 409, SUNSHINE ORDINANCE TASK  
FORCE OFFICE**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

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19/00  
special

Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 409  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-7854  
TDD/TTY No. 544-5227

SUNSHINE ORDINANCE TASK FORCE

SPECIAL MEETING

MINUTES

Tuesday, December 19, 2000  
4:00 p.m. City Hall, Room 408

DOCUMENTS DEPT.

FEB - 8 2001

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Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Gloria Young           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczyk          |            |                        |

Roll Call

Present: Brugmann, Ray, Bernstein, Kowalczyk, Planthold, Guillory, Cauthen

Absent: Appel, Courtney, Mallare, Hogan

1. Approval of Minutes of November 28, 2000 (5 min)

Minutes approved. (Planthold, Kowalczyk) (Appel, Courtney, Mallare, Hogan absent)

2. Report from Chair (Hilda Bernstein) (5 min)

Attended meetings of the Complaint Committee; Rules Committee; Public Education & Information Committee not held.

Appointed an ad hoc committee to deal with issues of Conflict of Interest—Chair Bob Planthold; Members Judy Appel and Dan Guillory.

Meeting held with Mike Farrah of Supervisor Newsom's office; Gloria Young to include in the orientation of new Supervisors that all public comment time limits must be uniformly applied; Gloria Young will have on each Board of Supervisors





and Committee agendas a statement that public comment shall be applied uniformly to members of the public wishing to testify; Mike Farrah to prepare a motion stating that the combination of agenda items requires the multiplication of time limits.

Annual Responsibilities and Objectives of the Task Force have been met to date.

Deputy City Attorney Jackie Minor reported on a meeting held with Chair Hilda Bernstein, Daniel Guillory and Bob Planthold and Planning Director Gerald Greene regarding noticing of planning items; Task Force Chair to schedule a meeting with Planning Commission President Theoharis. Discussion held among Task Force members regarding getting information to neighborhood groups and having them involved in discussions.

Bruce Brugmann moved, seconded by Bob Planthold, a memo be prepared for distribution to the Coalition of San Francisco Neighborhoods and a few other active neighborhood groups for their comment to Mr. Greene and back to the Task Force. No vote taken.

Discussion held among Task Force regarding preparing a memo. No action taken at this time. Any kind of formal notice will be addressed at a later time.

Public comment from:

Richard Knee; Possibly could come up with a list of organizations to be included in the distribution and put wording such as "this list shall include but shall not be limited to."

Christine Linnenbach; one of 27 neighborhood representatives that testified on this item; possibly send out memo to neighborhood organizations that are listed at the Planning Department; possibly posting on website.

Chair stated this item was not posted as an action item. If the Task Force wishes, this could be placed as an action item on the next agenda.

3. Report from Rules Committee

This report was continued to the January meeting.

3. Report from Complaint Committee

This report was continued to the January meeting.

The Task Force recessed for 15 minutes; then reconvened.



5. Report of Public Education & Information Committee

No report. The Committee had not met.

6. Joint hearing of Dawn A. Clements and Harry Jamerson regarding violation of the Sunshine Ordinance by the Human Rights Commission

The Complaint Committee had determined the Sunshine Ordinance Task Force had jurisdiction over these complaints.

Raymond Willis, Attorney at Law, representing Dawn Clements, addressed the Task Force regarding Dawn Clements' complaint regarding MBE/WBE/LBE Special Advisory appointment and termination of committee members. Mr. Willis requested this complaint be referred to the District Attorney's Office for prosecution of a violation, or a referral to the State Attorney General's Office for an opinion as to whether a violation exists based on the findings. (See attached letter from Mr. Willis)

Virginia Harmon, Interim Director of the Human Rights Commission, addressed the Task Force stating the following:

Commission By-Laws Rule 20 and HRC Rules and Regulations Rule II.B govern the appointment of members to the Advisory Committee.

Terms on the Advisory Committee are not "renewable."

The Commission did not make a "secret decision" to change membership terms.

Public Meeting Laws are invoked when a quorum of the body is involved.

(See attached letter)

Dawn Clements addressed the Task Force reiterating her complaint of a violation of the Sunshine Ordinance by the Human Rights Commission. Dawn Clements stated she was appointed in August 1996 to fill a vacancy.

Catherine Barnes, Deputy City Attorney, representing the Human Rights Commission, stated Dawn Clements' appointment came from the Chair of the Human Rights Commission; stating the rules and regulations gave the Chair the authority to make the appointment.

Amy Ackerman, Deputy City Attorney, addressed the Task Force, outlined, by memo, the legal and procedural issues raised by the complaints of Dawn Clements and Harry Jamerson regarding the Human Rights Commission. This memo was a request of the Complaint Committee on December 7, 2000.



Motion adopted that the Sunshine Ordinance Task Force request the newly elected Board of Supervisors ask the State Attorney General for an opinion on these two complaints regarding a possible violation of the State Brown Act and the Sunshine Ordinance. (Brugmann/Planthold) (Appel, Courtney, Mallare, Hogan absent)

8. Public Comment

Richard Knee, School Board of Education presented resolution to their board to adopt the Sunshine Ordinance; requested any known implementation costs, or roadblocks, etc., so he might present the information to the Board of Education.

Christine Linnenbach addressed the Task Force during public comment about a letter prepared by the City Attorney's Office regarding retention of constituent correspondence for the Board of Supervisors; she stated she wanted to bring this to the attention of the Task Force because she was concerned that outgoing members of the Board of Supervisors were clearing out their offices and files and constituent correspondence was not being retained.

This item referred to the City Attorney's Office for review and follow-up to advise the Task Force what action the City Attorney's Office would recommend.

7. Report of Administrator

Written report submitted outlining:

- Complaint Log
- Communications Logs
- Follow-up to requests
- Contact Numbers of Members
- Meeting schedule
- Vacancies on Task Force

Under public comment, Joe Partnansky suggested a master set of documents be available for the public.

Chair Hilda Bernstein thanked the staff and the Task Force for the work accomplished this year.

The meeting adjourned at 5:50 p.m.

Submitted by Donna L. Hall, Administrator



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Sunshine Ordinance Task Force



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TDD/TTY No. 544-5227

## SUNSHINE ORDINANCE TASK FORCE

### REGULAR MEETING

DOCUMENTS DEPT.

### AGENDA

JAN 19 2001

Tuesday, January 23, 2001  
4:00 p.m. City Hall, Room 408

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### Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczyk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding City representatives.

### Roll Call

### Agenda Changes

1. Approval of Minutes of December 19, 2000 (5 min)  
Action item: Shall the minutes be approved?
2. Report from Chair (Hilda Bernstein) (5 min)  
Discussion item
3. Report from City Administrator on semi-annual progress of records index (Bill Lee)  
Discussion item

4. Report from Rules Committee (Bob Planthold, Chair) (2 min)

Discussion item

Next regular Rules Committee meeting: February 13, 2001

5. Report from Complaint Committee (Judy Appel, Chair) (10 min)

Discussion item

Report from Complaint Committee meeting of January 16, 2001

Next meeting of Complaint Committee February 8, 2001.

6. Report of Public Education & Information Committee (Paul Hogan, Chair)

Discussion item

Next Regular Meeting of Public Education & Information Committee meeting:  
To be set

7. Hearing of Les Goldner against the Recreation & Park Department

Action item: Shall an Order of Determination be made on the complaint submitted by Les Goldner?

8. Hearing of Kevin Williams against the Human Rights Commission

Action item: Shall an Order of Determination be made on the complaint submitted by Kevin Williams?

9. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission.

Discussion and possible action. Has the Human Rights Commission complied with the Order of Determination?

10. Report of Administrator (Donna Hall) (5 min)

Discussion item

11. Public Comment (20 min)

**ADJOURNMENT**

**Next Regular Meeting February 27, 2001, 4:00 p.m.**



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FORCE OFFICE

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## SUNSHINE ORDINANCE TASK FORCE

### REGULAR MEETING

### MINUTES

Tuesday, January 23, 2001  
4:00 p.m. City Hall, Room 408

#### Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Vacant                 |
| Seat 7 | Ted Kowalczyk          |            |                        |

#### Roll Call

Absent: Brugmann, Mallare

1. Approval of Minutes of December 19, 2000

Minutes approved. (Planthold/Ray)

2. Report from Chair

Chair Hilda Bernstein reported that Jackie Minor will remain as counsel to the Sunshine Ordinance Task Force; requested the Ad Hoc Conflict of Interest Committee to expend their purview to include potential conflicts vis-à-vis members of the Task Force as well as those of our elected representatives; inquiry to be sent to State Attorney General asking whether the appointment of members to the HRC Minority/Women Business Enterprise Advisory Committee was done in accordance with State and Local laws; Planning Commission President to meet with Chair regarding scheduling of public comment; responded to letter from Hillary Gitleman of Planning Department; members who have missed two meetings were sent letters reminding them of the three-missed-meeting rule; requested the Rules Committee to look into extending the three-

DOCUMENTS DEPT

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missed-meetings rule to committees; to meet with Supervisor Gonzalez, Chair of the Rules Committee, in the near future.

Discussion held regarding requesting opinion from State Attorney General regarding sole assignment of attorney to the Task Force. It was the consensus of the Task Force that further discussion of this item was required.

Public Comment from Gilbert Criswell regarding the sole source attorney discussion.

3. Report from City Administrator on semi-annual progress of records index

Jill Lerner, City Administrator's Office, reported on the second semi-annual report to the Task Force on the progress of the records index. Ms Lerner stated 13 departments' record retention schedules had been approved by the City Attorney's Office; as the record retention schedules receive the necessary approvals, they will be posted on the web.

4. Report from Rules Committee

No report.

5. Report from Complaint Committee

Chair Judy Appel reported the results of the last Complaint Committee; the request for a hearing from Courtney and Courtney on behalf of Bruce Easley and Maria Zelaya was withdrawn; the William complaint set for hearing.

Public comment from Gilbert Criswell regarding copies of material not being available to the public at the last meeting.

6. Report of Public Education & Information Committee

Chair Paul Hogan reported he had met with representatives of the Department of Telecommunications and Information Systems regarding updating the Task Force web page; the Committee had obtained a listing of neighborhood groups from the Planning Department; press releases were now being issued.

7. Hearing of Les Goldner against the Recreation & Park Department

Les Goldner addressed the Task Force stating he had not received a mailing list he had requested for the San Francisco Marina Harbor Tenants Association from the Recreation and Park Department.

Mike Morlin, Recreation & Park Department addressed the Task Force stating the request for the mailing list was denied because the Association was

requesting home addresses and telephone numbers; the Department is willing to do a mailing if the Association brings in the information they wished mailed; the Department will print mailing labels and mail the information; the Department would be willing to do a mailing with a consent form to be returned stating the Department may release the home addresses and telephone numbers to the Association; the return form could be mailed directly to the Association.

Jackie Minor, City Attorney's Office, stated the advice from the City Attorney's Office is that there is a state statute provision regarding a right to privacy with respect to home addresses and telephone numbers.

Hilda Bernstein stated there is a larger issue of the use of taxpayer support for property and the issue of privacy—has asked counsel for information on this.

Public comment from John Jacobson stating in the past Recreation and Park has done mailings on behalf of the Association; there is an element of censorship by the Department; there is no commercial interest by the Association.

Public comment from Gilbert Criswell regarding the advice on the state statute and Prop G.

Public comment from Courtney Clarkson stating the only information the Association receives is from the Association; would urge the mailing list be provided to Mr. Goldner.

The following order of determination was adopted: (Appel/Planthold)  
Brugmann, Mallare absent)

Without making a determination regarding the privacy issues implicated by this complaint, the Sunshine Ordinance task Force orders:

- (1) Recreation and Park Department will supply a list of names and berth numbers within 72 hours, and will do so in a timely manner upon an "Immediate Disclosure Request" at any time in the future.
- (2) Recreation and Park Department will mail a consent form, drafted by the San Francisco Marina Harbor Tenants Association with a return envelope to the Association.
- (3) Recreation and Park Department will continue to send any mailings upon request in the future.

## 11. Public Comment

Gilbert Criswell addressed the Task Force regarding the privacy issue.

8. Hearing of Kevin Williams against the Human Rights Commission

Kevin Williams addressed the Task Force stating the Human Rights Commission failed to respond in a timely manner to a request for documents; was served with a letter with an invoice for payment of \$593.80 for the cost of reproducing copies of records; all records were not released; requesting relief from the cost of reproducing the records; any senior manager would be able to have the records at no cost; HRC is requesting payment for records or look at records on vacation and/or comp time; HRC did not make good faith effort to provide requested documents.

Cathy Barnes, City Attorney's Office, representing the HRC, stated the issue is not that Mr. Williams cannot have the records; the issue is that he must pay for the records or look at the records at the HRC office during the time he is not working for the HRC; Mr. Williams may see records on his own time during business hours; HRC made good faith effort to provide requested documents.

Discussion held among the Task Force regarding paying/not paying for the records; possibility of waiving the fee; question of whether the Task Force has jurisdiction to make judgment whether or not someone uses their own time or part of their work program or employer time to look at documents—could be a labor issue; why not just give the person the records; this person is an employee; flexibility is a great value.

Cathy Barnes stated if the policy is waived for paying the fees for one person, should then be waived for others.

Member Tuesday Ray left the meeting at this time.

Task Force Member Appel stated possibly the Task Force could help broker a solution so Mr. Williams could be provided the documents; confused by the \$600 fee; would urge resolution of matter where Mr. Williams is not forced to use his personal time; feel the HRC is not operating in good faith; HRC could lend documents to Mr. Williams to flag the ones he would like copied.

Chair Bernstein stated HRC does not have a good reputation; seems this is an opportunity to turn this around; what is logic of charging Mr. Williams; perhaps HRC could lend him the documents to review what he wants.

Task Force Member Courtney stated Task Force should be direct and firm in the Order of Determination; Task Force has the authorization to deal with complaints on a case-by-case basis; this would not bind us with respect to another complaint.

Task Member Planthold stated it looked like there were two options—Mr. Williams to pay the full fee, or take his own time to scrutinize the documents and select the pages he wants to have copied.

Task Member Guillory stated his main concern is whether or not the Task Force will set a precedent if an exception is made.

Cathy Barnes stated the HRC feels it has fulfilled its obligation under the Sunshine Ordinance; HRC is complying with the statutes as set forth and are responding as they do to other requests.

Jackie Minor, City Attorney's Office, stated the ordinance does not have any provision that suggests lending copies of documents to send home.

Under public comment, Gilbert Criswell spoke regarding not being more receptive to Mr. Williams' request.

Motion adopted directing the Human Rights Commission to loan to Mr. Williams, by January 24, 2001, the documents requested by Mr. Williams; Mr. Williams to indicate which of the documents he wants to have copied; and Mr. Williams to pay only for those copies that are indicated by Mr. Williams he wants to receive after he looks at the documents. (Courtney, Kowalczyk) (Planthold no) (Brugmann, Mallare, Ray absent)

9. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission.

This item continued to the next regular meeting.

10. Report of Administrator

This item continued to the next regular meeting.

The meeting adjourned at 6:45 p.m.

Submitted by Donna L. Hall, Administrator







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## SUNSHINE ORDINANCE TASK FORCE

### REGULAR MEETING

DOCUMENTS DEPT.

### AGENDA

*"see revised" agenda*

FEB 23 2001

Tuesday, February 27, 2001  
4:00 p.m. City Hall, Room 408

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### Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hijazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding City representatives who are requested by the Task Force to make a presentation.

Note: Each item on the Agenda may include minutes, department or agency letters and reports, Task Force reports, and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

### Roll Call

### Agenda Changes

1. Approval of Minutes of January 23, 2001 (5 min)

Action item: Shall the minutes be approved?

2. Recommendation regarding removal of Task Force Member (10 min)

Action item: Shall the Task Force take action to recommend to the Board of Supervisors that Task Force Member Marie-Lorraine Mallare be removed for failing to attend three meetings as required by the Task Force by-laws?

3. Report from Chair (Hilda Bernstein) (20 min)

- (a) Status and update letter to Gloria Tulanowski
- (b) Letter to San Francisco Retirement Board regarding Courtney & Courtney complaints
- (c) Letters to and from Anita Theoharis regarding meeting with Chair of Planning Commission
- (d) Attendance at Committee meetings of 1/31/01 Ad Hoc Committee on Conflict of Interest and 2/13 Rules Committee
- (e) Dawn Clements letters to Board of Supervisors and Supervisor Ammiano and Task Force response.
- (f) Reconsideration of the Clements and Jamerson complaints at the March 2001 Task Force meeting

Action item: Shall the Task Force set this item for rehearing?

- (g) Reassessment of the Task Force three-meeting-absence rule

Action item: Shall this item be referred to the Rules Committee?

- (h) Facilitating work of Task Force; the role of the Chair

Discussion and possible action on above items

4. Report from Counsel (Jackie Minor) (5 min)

Discussion item

5. Report from Judy Appel, Chair of the Complaint Committee and Bob Planthold, Chair of the Rules Committee regarding distribution of complaints to the Task Force (20 min)

Action item: Shall the Task Force reaffirm its present procedure for distribution of complaints or shall the Task Force change the current procedures?

- 2
6. Report from Complaint Committee (Judy Appel, Chair) (10 min)

Report from Complaint Committee meetings of December and January

Action item: Shall the Public Complaint Procedure be amended?

Next meeting of the Complaint Committee: March 8, 2001

7. Report from Rules Committee (Bob Planthold, Chair) (5 min)

Report from Rules Committee meetings of December and February

Discussion item: Attendance at committee meetings

Next meeting of the Rules Committee: To be set.

8. Report of Public Education & Information Committee (Paul Hogan, Chair) (5 min)

Report of Public Education & Information Committee meeting of January 25, 2001.

Discussion item

Next meeting of the Public Education & Information Committee: To be set

9. Order of Determination dated January 23, 2001, Complaint of Kevin Williams against the Human Rights Commission (10 min)

Discussion and possible action.

10. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission. (15 min)

Discussion and possible action. Has the Human Rights Commission complied with the Order of Determination?

11. Report of Administrator (Donna Hall) (5 min)

Discussion item

12. Public Comment (10 min)

**ADJOURNMENT**

**Next Regular Meeting March 27, 2001, 4:00 p.m.**

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FORCE OFFICE**

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## **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at [Donna\\_Hall@ci.sf.ca.us](mailto:Donna_Hall@ci.sf.ca.us).

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## Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 409  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-7854  
TDD/TTY No. 544-5227

## SUNSHINE ORDINANCE TASK FORCE

### REGULAR MEETING

### \*REVISED AGENDA

Tuesday, February 27, 2001  
4:00 p.m. City Hall, Room 408

### Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie-Lorraine Mallare | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hijazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding City representatives who are requested by the Task Force to make a presentation.

Note: Each item on the Agenda may include minutes, department or agency letters and reports, Task Force reports, and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

### Roll Call

### Agenda Changes

1. Approval of Minutes of January 23, 2001 (5 min)

Action item: Shall the minutes be approved?

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- Previous Agenda Item 3 (f) deleted

2. Recommendation regarding removal of Task Force Member (10 min)

Action item: Shall the Task Force take action to recommend to the Board of Supervisors that Task Force Member Marie-Lorraine Mallare be removed for failing to attend three meetings as required by the Task Force by-laws?

3. Report from Chair (Hilda Bernstein) (20 min)

- (a) Status and update letter to Gloria Tulanowski
- (b) Letter to San Francisco Retirement Board regarding Courtney & Courtney complaints
- (c) Letters to and from Anita Theoharis regarding meeting with Chair of Planning Commission
- (d) Attendance at Committee meetings of 1/31/01 Ad Hoc Committee on Conflict of Interest and 2/13 Rules Committee
- (e) Dawn Clements letters to Board of Supervisors and Supervisor Ammiano and Task Force response.
- (f) Reassessment of the Task Force three-meeting-absence rule

Action item: Shall this item be referred to the Rules Committee?

- (g) Facilitating work of Task Force; the role of the Chair

Discussion and possible action on above items

4. Report from Counsel (Jackie Minor) (5 min)

Discussion item

5. Report from Judy Appel, Chair of the Complaint Committee and Bob Planthold, Chair of the Rules Committee regarding distribution of complaints to the Task Force (20 min)

Action item: Shall the Task Force reaffirm its present procedure for distribution of complaints or shall the Task Force change the current procedures?

- 1/2
6. Report from Complaint Committee (Judy Appel, Chair) (10 min)  
Report from Complaint Committee meetings of December and January  
Action item: Shall the Public Complaint Procedure be amended?  
Next meeting of the Complaint Committee: March 8, 2001
  7. Report from Rules Committee (Bob Planthold, Chair) (5 min)  
Report from Rules Committee meetings of December and February  
Discussion item: Attendance at committee meetings  
Next meeting of the Rules Committee: To be set.
  8. Report of Public Education & Information Committee (Paul Hogan, Chair) (5 min)  
Report of Public Education & Information Committee meeting of January 25, 2001.  
Discussion item  
Next meeting of the Public Education & Information Committee: To be set
  9. Order of Determination dated January 23, 2001, Complaint of Kevin Williams against the Human Rights Commission (10 min)  
Discussion and possible action.
  10. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission. (15 min)  
Discussion and possible action. Has the Human Rights Commission complied with the Order of Determination?
  11. Report of Administrator (Donna Hall) (5 min)  
Discussion item
  12. Public Comment (10 min)

**ADJOURNMENT**

**Next Regular Meeting March 27, 2001, 4:00 p.m.**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
TUESDAY THROUGH FRIDAY, ROOM 409, SUNSHINE ORDINANCE TASK  
FORCE OFFICE**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

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**SUNSHINE ORDINANCE TASK FORCE**

**REGULAR MEETING**

**MINUTES**

**Tuesday, February 27, 2001  
4:00 p.m. City Hall, Room 408**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Vacant                 | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hijazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Roll Call: All present.

Agenda changes announced.

1. Approval of Minutes of January 23, 2001

Minutes approved. (Planthold/Ray) (Courtney no)

3. Report from Chair

Chair Bernstein reported on the following items:

- (a) Status and update letter to Gloria Tulanowski
- (b) Letter to San Francisco Retirement Board regarding Courtney & Courtney complaints
- (c) Letters to and from Anita Theoharis regarding meeting with Chair of Planning Commission

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(d) Attendance at Committee meetings of 1/31/01 Ad Hoc Committee on Conflict of Interest and 2/13 Rules Committee

(f) Reassessment of the Task Force three-meeting-absence rule

This item will be referred to the Rules Committee

(g) Facilitating work of Task Force; the role of the Chair

This item will be referred to the Rules Committee

(e) Dawn Clements letters to Board of Supervisors and Supervisor Ammiano and Task Force response.

Member Guillory asked if the Task Force had had a response from the Attorney General. The answer was no. Deputy City Attorney Delventhal stated State Law requires response from City Attorney to the subject when a request is made to the Attorney General

#### 4. Report from Counsel

Deputy City Attorney Minor reported on the following items:

- (1) Information on disclosure of home telephone numbers and addresses
- (2) Attorney General opinion information regarding e-mails
- (3) 1/9/01 memo regarding referral of matters by the Task Force to the Attorney General
- (4) Article I, Section I of the State Constitution which is the right to privacy.

#### 2. Recommendation regarding removal of Task Force Member

This item was removed from the agenda. Member Brugmann submitted a letter of resignation from Marie-Lorraine Mallare.

#### 5. Report from Judy Appel, Chair of the Complaint Committee and Bob Planthold, Chair of the Rules Committee regarding distribution of complaints to the Task Force

Members Ray, Hogan were in favor of leaving the distribution of complaints first through the Complaint Committee and then to the entire Task Force.

Members Brugmann, Courtney were in favor of all Task Force members receiving copies of the complaints at the time they were submitted to the Sunshine Ordinance Task Force Office.



Motion to continue with the practice now of distributing complaints through the Complaint Committee first. (Planthold/Ray) (Ayes Ray, Bernstein, Kowalczuk, Planthold, Hogan) (Noes Appel, Brugmann, Courtney, Guillory, Cauthen) The motion failed.

Moved to distribute copies of complaints at the time they are submitted to the Sunshine Ordinance Task Force Office to the members who have requested advance copies. (Appel/Brugmann) (Ayes Appel, Brugmann, Cauthen, Courtney, Guillory, Ray, Kowalczuk, Planthold, Hogan) (Noes Bernstein)

6. Report from Complaint Committee

Committee Chair Appel reported on the meetings of the Complaint Committee relative to changes to the Public Complaint Procedure adopted 8/22/00. The changes dealt with Section B. Filing a Petition of Complaint with the SOTF and Section D. Public Hearing Requested.

Moved to amend the Public Complaint Procedure, Section B. Filing a Petition of Complaint with the SOTF and Section D. Public Hearing Requested, Item 1, as follows: (Appel/Planthold)

Section B. Filing a Petition of Complaint with the SOTF to now read:

B. Filing a Petition of Complaint with the SOTF:

1. No hearing will be held without the filing of a petition, either in the form of a letter or with a (revised) complaint form.
2. A petition may be submitted to the SOTF via mail, fax or e-mail. Task Force members who have requested advance copies of complaints will be sent the complaint information at the time the complaint is submitted to the Sunshine Ordinance Task Force Office.
3. The petition will include a way to indicate if the complainant wants a public hearing on the issue raised in the petition.
4. Copies of all correspondence and other documents relating to or arising out of a petition will be provided to all parties in a timely manner, and best efforts will be made to do so before any meeting or hearing at which the petition will be discussed.
5. A standing "Complaint Committee" of the SOTF will consist of at least three members of the SOTF.



6. All complaints will go to the Complaint Committee for review. Petitioner will be advised of the date, time and location of the complaint committee meeting during which their petition will be discussed. Petitioner will be notified that they are invited and if they do not attend, will be notified of the results of the Complaint Committee. Petitioner will be requested to submit all pertinent information.
7. The City Attorney will make a recommendation to the Complaint Committee as to whether or not the SOTF has subject matter jurisdiction over a complaint. If the City Attorney determines that the SOTF lacks such jurisdiction, s/he will so advise the Complaint Committee. If the Complaint Committee agrees, the complainant will be notified in writing that the SOTF cannot hear the complaint and the complaint will be closed. If the Complaint Committee disagrees with the City Attorney's determination and determines that subject matter jurisdiction exists, the complaint will proceed.
8. Upon a finding of jurisdiction by the complaint committee, the SOTF Administrator will send copy of the petition to the affected department, with a request to respond within five business days. The city attorney may assist the city departments and agencies in responding to requests for public records, and may seek the assistance of the city attorney assigned to the SOTF.
9. The Administrator of the SOTF will gather relevant information and documents prior to the first Complaint Committee during which a petition will be discussed.
10. Prior to a hearing, and at the discretion of the Complaint Committee, the Complaint Committee may make a determination regarding whether the petition has possible merit as a violation of the SF Sunshine Ordinance, based on the content of the petition and any supporting documentation. Where it is determined that, given all of the facts alleged by the complainant, the petition is without any possible merit, the Complaint Committee will make a recommendation of "no violation" to the full SOTF, and will advise the petitioner of this recommendation. Consistent with the language and spirit of the SF Sunshine Ordinance to provide the most open government possible, (see "Findings and Purpose," SF Admin Code section 67.1), all inferences and evidence will be viewed in the light most favorable to the petitioner.
11. Where the Complaint Committee makes a recommendation of "no violation," it will do so to the SOTF at its next meeting. If the SOTF votes against this recommendation and decides to allow the matter to go to hearing, and where holding a hearing at the following regularly scheduled





meeting would result in a violation of the 45 day time-limit for resolving complaints that is mandated by Admin. Code section 67.21, then a Special Meeting will be called for a hearing on the matter.

12. A copy of the departmental response will be forwarded to the member of the public by the SOTF Administrator. Where an individual has not requested a hearing, they will again be advised that such a hearing is available to them.
13. A copy of the complaint, the departmental response and any supporting documents will be provided to all members of the SOTF for their review. Where the documents supporting the complaint exceed 75 pages, the complaint will be forwarded without its full exhibits, with an indication that the full exhibits are on file with the SOTF Administrator.
14. The Complaint Committee will facilitate the determination by the SOTF of whether or not a document is public in accordance with Sections C (no hearing requested) & D (public hearing requested) below.
15. The city attorney assigned to the SOTF will be available to answer questions regarding the application of the Sunshine Ordinance to the request at issue in the complaint.

D. Public Hearing Requested

1. When a public hearing is requested, where jurisdiction has been found to exist, and where there has not been a determination of "no violation," a hearing will be set at the next meeting of the SOTF. Where this is not possible because of notice requirements or because of time restraints, a Special Meeting will be set within 30 days of the request to hold the public hearing.

7. Report from Rules Committee

Committee Chair Planthold reported on meetings of the Rules Committee,

General discussion held among members regarding Task Force and Committee meeting absences. This item will be on the Rules Committee agenda.

12. Public Comment

Emeric Kalman spoke during public comment regarding posting of agendas.



8. Report of Public Education & Information Committee

Committee Chair Hogan reported on the meetings of the Public Education & Information Committee.

9. Order of Determination dated January 23, 2001, Complaint of Kevin Williams against the Human Rights Commission

Kevin Williams addressed the Task Force stating he was willing to use his lunch hour, his breaks that not on company time; Ms. Barnes had stated they had no problem with that; all I asked for was the documents, I received an order and I had an expectation that I would receive them; I ask this Task Force exercise its inevitable authority and do exactly what the City Attorney suggests on Page 3 of her memo 1 through 6 which details the authority of the Task Force and institute those actions; as a direct order you could have simply censored them because you acknowledge their non-compliance; their comes a time to fish or cut bait.

Catherine Barnes, Deputy City Attorney, representing the Human Rights Commission; HRC is in full compliance with the Sunshine Ordinance and the Public Records Act; that has been the HRC position from the beginning; the records were asked for in November and have been sitting in boxes waiting for Mr. Williams to look at them; the only thing new that I heard is that Mr. Williams said five minutes ago that Mr. Williams said that he wants to look at them during his lunch hour and breaks; he has not asked for them previously during these times; they are sitting there waiting for him; this is new information; if it is appropriate, I would ask you to rescind the order that you put in place at the last meeting because I believe you did not have the authority to make the order for the HRC to loan the documents to Mr. Williams; I believe the public records is complete.

Member Kowalczyk asked if Mr. Williams had to pay for the ten cents per page to look at the documents during his free time. Ms. Barnes answered he can look at them during his non-work time; he just cannot take them away unless he pays for them.

Member Cauthen asked if the documents were copies. Ms. Barnes stated yes, they were copies; originals are kept in tact; no one else has borrowed them; there are 6,000 documents.

Member Brugmann thought this was settled; cannot believe what has happened; Mr. Williams is a watchdog; is a lot of good things; he is asking for these things; HRC has been under investigation by the FBI and investigated by the newspapers; seems you would do everything possible to make these records available as soon as possible; very proud of the Task Force that they came up with a solution and you have stonewalled the solution; you won't even loan him



the documents; Public Records Act and Sunshine Ordinance do not specify ten cents; they could be given for free; why cannot this be worked out for one of your own employees. Ms. Barnes stated they treat every request the same; proud of the fact that the HRC has spent time and effort to collect the 6,000 documents; to go through every document to remove any kind of privacy information that applies; many, many hours have been required to do this; would be a waste of our public funds if we decided to provide documents to one person and to the next person; we would be giving something to him that we do not give to anyone else.

Member Appel stated she implored the Task Force stand by the decision that was made at the last Task Force meeting; not hearing anything today other than the HRC does not want to be cooperative in providing these documents; strongly urge the Task Force to not rescind its Order of Determination.

Member Appel left the meeting at this time.

Regarding the ten cents charge Chair Bernstein asked Catherine Barnes if the fee could be waived for special circumstances; Catherine Barnes stated the statute says ten cents; the Mayor has a policy of charging ten cents; however under special circumstances, the fee could be waived.

Member Courtney stated Mr. Williams has to take time off to look at documents; was under the impression HRC was going to cooperate with the Order of Determination, despite the fact we do not have the authority to order them to do so.

Mr. Williams stated the Task Force is an ally to the HRC; this process has helped the HRC to locate records; feel this Task Force has not been told the truth; this process has helped the HRC; if in denial the Task Force will not get to the real issue of eliminating a cloud and replacing with sunshine.

Public comment from Janine Murtha regarding the 2/20/01 memo from City Attorney Office to the Task Force, pointing out points of lack of jurisdiction to lend Mr. Williams the records.

Jackie Minor, Deputy City Attorney, stated after the Task Force entered its Order of Determination, the HRC sent to the Task Force a letter indicating the action taken by the Task Force was beyond the scope and authority of the Sunshine Ordinance; the Chair of the Task Force contacted the City Attorney Office and requested what further action the Task Force could take. The question now is what further action can you as the Task Force take under the Sunshine Ordinance to enforce an order that you have already issued; under the Sunshine Ordinance there are six statutory authorities that this Task Force can take; is there something further that can be done; there is nothing further under the Sunshine Ordinance that the Task Force can take; it does however provide that



further action can be taken by the complainant; under the ordinance he may pursue this further with the Ethics Commission or by filing a complaint in court; as you further consider this when you look at range of actions, loaning documents is not one of the provisions provided in the ordinance; the ordinance does not provide a general, all sweeping authority which would allow the Task Force to fashion some kind of equitable compromise solution; there was no indication on the part of the HRC at the time of the hearing of the compromise that the Task Force came up with.

Member Courtney stated filing a lawsuit was not a solution.

Deputy City Attorney Minor stated the ordinance provides for recovery of attorney fees if he prevails.

Member Cauthen asked about the amount of documents.

Member Brugmann stated the Task Force can do all kinds of things; concerned about the statement that the Task Force cannot ask the HRC to give or loan the documents; documents are given free to the press and citizens all the time.

Deputy City Attorney Minor stated the question composed to the City Attorney's Office was whether the Task Force could compel the HRC to loan the documents; the answer is the Task Force cannot compel.

Chair Bernstein what has happened with this is not effective availability; would have helped if HRC would have helped if they would have tried to compromise.

Member Courtney stated the ordinance lacks some teeth regarding city attorney representation; what we need in the Board of Supervisors Chambers is to get some teeth; would like a brief opinion letter from Deputy City Attorney Minor that says what our options may or may not be with respect to going to the Board with a resolution showing them the Task Force cannot win—we need help.

Member Ray left the meeting at this time.

Member Planthold left the meeting at this time.

Member Cauthen stated she agreed we need to go to the Board of Supervisors and let them know these are the kinds of problems we come up with from time to time.

Member Brugmann asked about the ten-cent-a-page policy from the Mayor's Office. Chair Bernstein requested Deputy City Attorney Minor to confirm that it is a fact there is a Mayor policy of ten cents a page.





Motion to urge the Sunshine Ordinance Task Force that the HRC give the documents for free to Kevin Williams as soon as possible and transmit this to the Board of Supervisors and they make it stick, if at all possible. (Brugmann/Courtney) No vote.

Deputy City Attorney Minor stated this is a voter-approved initiative and changes to the ordinance must be made by the voters.

Moved and adopted not to compel but to urge the HRC to provide to Mr. Williams the copies he has requested and waive all applicable fees in an order to comply with the spirit of the Sunshine Ordinance and in an effort to arrive at a mutually acceptable resolution. (Courtney/Kowalczyk) (Appel, Ray, Planthold absent)

Motion requesting the City Attorney to prepare legislation to bring to the Board of Supervisors to strengthen and make effective the ordinance, specifically the issue of charging fee, etc., and place the matter before the public at the next earliest possible election. (Bernstein/Cauthen) Not voted. The motion was restated.

Moved and adopted requesting the City Attorney to prepare proposed legislation to be dealt with by the Board of Supervisors in anticipation of putting material at the next election which will strengthen and re-enforce the spirit of the Sunshine Ordinance. (Bernstein/Cauthen) (Appel, Ray, Planthold absent)

Member Hogan stated to also publicize any fees associated with getting documents and also publicize a waiver of those fees may be requested by someone requesting documents.

Member Courtney stated what we need to know is how we can prevent this kind of thing occurring over and over again with multiple lawyers fighting over the same issue out of the same office; what I want from our lawyers is some specific instances whether or not they can be achieved through the resolution process at the Board level or whether we have to go to the voters; want something from the City Attorney stating what the problem is; what could maybe work if the voters passed it; do not want a memo stating why Mr. Williams cannot get his request.

Chair Bernstein requested that in preparation for such a proposal that the City Attorney review the past complaints that have come before the Task Force to see what the common denominators are so we can specifically ask that the Board of Supervisors include solutions to those problems in any legislation when they place it before the voters.

Ex-officio Member Hijazi left the meeting at this time.  
Member Daniel Guillory left the meeting at this time.



10. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission. (15 min)

Janene Murtha, Davis Reno, representing Local 21, AFL-CIO, addressed the Task Force, stating the Human Rights Commission has not made a good faith effort; requested handwritten compensatory time ledger; received conflicting information regarding the documents; the ledger of former HRC Controller Arcedo Brillantes has not been produced; information was to be logged into the computer; Mr. Brillantes did not feel comfortable signing a declaration regarding the ledger; need to have a neutral source look for the documents; next resource is to go to the Ethics Commission; information has been misrepresented.

Member Courtney asked about letter of January 16, 2001 from HRC stating HRC has completely complied with the Davis Reno request; Janene Murtha stated the only thing outstanding is the handwritten hand ledger.

Catharine Barnes, attorney representing HRC, stated the two requests involving Kevin Williams have been confusing; records for 6/94 through 6/96 have been provided; additional nine compliance officer reports provided first half of 1994 and last half of 1996; possible pending requests for Frank Anderson and Jackie Haile are available; these are possibly with Kevin Williams documents; they are available for 1994 through 1996. Mr. Williams has had numerous different types of complaints about his comp time payment, and these have gone back and forth to different parts of the City Attorney's Office; possibly the original document is probably somewhere misfiled at the HRC or in City Attorney storage document; we are looking for them; handwritten ledgers were entered into the computer; have produced all source documents; all information has been submitted; unfortunate we do not have compilation; we do have compilation for Kevin Williams; no missing information; feel HRC has done a reasonable and diligent search.

Member Courtney stated the letter dated January 16, 2001 stating the HRC has completely complied with the Davis Reno request; is this correct; Catharine Barnes stated the HRC has given them everything the HRC could find; Member Courtney stated he had a problem with lack of good faith.

Member Kowalczyk stated he agreed there has been ill will in the past.

Janene Murtha stated with regard to time cards; does not say whether they have taken the time; part of the dispute is whether or not Kevin Williams got the hours and whether or not he was allowed to take them in comparison to others; this is not an accurate representation of the information we requested.

This item continued to the next meeting.



11. Report of Administrator

Donna Hall, Administrator, submitted report.

Member Courtney stated when Administrator is informed of lack of compliance from Order of Determination, he would like to know about it immediately.

The meeting adjourned at 7:00 p.m.

Donna L. Hall, Administrator



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Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE**  
**SPECIAL NOTICE FOR MEETING OF**

**Tuesday, March 27, 2001**  
**4:00 p.m. City Hall, Room 408**

At the Regular Meeting of Tuesday, March 27, 2001, the Sunshine Ordinance Task Force will consider modifications of their By-laws relating to attendance at meetings.

The agenda for the meeting of March 27, 2001 will be distributed on Thursday, March 22, 2001.

*Donna L. Hall*

Donna L. Hall, Administrator  
Dated March 15, 2001

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Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE

REGULAR MEETING

AGENDA

Tuesday, March 27, 2001  
4:00 p.m. City Hall, Room 408

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Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
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| Seat 7 | Ted Kowalczuk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

Roll Call

Agenda Changes

1. Approval of Minutes of February 27, 2001 (5 min)  
Action item
2. Demonstration of records index on City web page (Jill Lerner) (10 min)  
Discussion item

3. Report from Chair (Hilda Bernstein) (10 min)

- (a) Attendance at various meetings
- (b) Telephone call to New California Media
- (c) Correspondence  
Catharine Barnes  
Matt Gonzalez
- (d) Proposal for Sunshine Ordinance review (action item)

Discussion and possible action items

4. Report of Administrator (Donna Hall) (5 min)

Discussion item

5. Report from Counsel (Jackie Minor) (5 min)

Discussion item

6. Resolution of the SF LAFCo Establishing Open Meeting Processes (5 min)

Discussion and possible action

7. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission. (15 min)

Discussion and possible action. Has the Human Rights Commission complied with the Order of Determination?

8. Report from Complaint Committee (Judy Appel, Chair) (2 min)

Discussion item

Next regular meeting of Complaint Committee  
April 12, 2001

9. Report from Public Education & Information Committee (Paul Hogan, Chair) (5 min)

Report of Public Education & Information Committee meeting of March 8, 2001.  
Discussion item

Next regular meeting of Public Education & Information  
Committee April 5, 2001

- 00
10. Report from Rules Committee (Bob Planthold, Chair) (5 min)

Report of Rules Committee meeting of March 8, 2001

- (a) Amending by-laws regarding reporting members' absences
- (b) Notification to prospective SOTF members of attendance requirements.
- (c) Recommendation on clarifying the duties and authority of the Chair

Discussion & possible action item

Next regular meeting of Rules Committee  
April 10, 2001

11. Report from Ad Hoc Committee Regarding Conflict of Interest (Bob Planthold, Chair) (5 min)

Report of Ad Hoc Committee meeting of March 9, 2001

Discussion item

12. Request for information from the City Attorney's Office on possible "conflicts with representation on the Sunshine Ordinance Task Force." (Bruce Brugmann) (10 min)

Discussion and possible action item

13. Public Comment (20 min)

**ADJOURNMENT**

**Next Regular Meeting April 24, 2001, 4:00 p.m.**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
TUESDAY THROUGH FRIDAY, ROOM 409, SUNSHINE ORDINANCE TASK  
FORCE OFFICE**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **Cell phones, pagers and similar sound-producing electronic devices**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at Donna\_Hall@ci.sf.ca.us.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at  
<http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>



**SUNSHINE ORDINANCE TASK FORCE  
REGULAR MEETING**

**DOCUMENTS DEPT.**

**MINUTES**

**APR 27 2001**

**Tuesday, March 27, 2001  
4:00 p.m. City Hall, Room 408**

**SAN FRANCISCO  
PUBLIC LIBRARY**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Vacant                 | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hajazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

**Roll Call:** Appel, Ray, Hogan absent

**1. Approval of Minutes of February 27, 2001**

Minutes approved as amended (Item #5 roll call). (Planthold, Cauthen)  
(Appel, Ray, Hogan absent)

**2. Demonstration of records index on City web page (Jill Lerner)**

Demonstration given by Jill Lerner, City Administrator's Office, and Richard Isen,  
Department of Telecommunications and Information.

**3. Report from Chair Hilda Bernstein**

- (a) Attendance at various meetings
- (b) Telephone call to New California Media
- (c) Correspondence
  - Catharine Barnes
  - Matt Gonzalez

- (d) Proposal for Sunshine Ordinance review: Existing ad hoc committee would be rolled to a Review Committee to which would be added three persons who were involved in drafting Prop G; chair of the Task Force would chair Review Committee; charge would be to determine issues that should be removed, clarified, or added, i.e., meaning of sole; sending inquiries to the State Attorney General; changing the reserved seat for the New California Media to a seat reserved for a representative of an ethnic newspaper; adding enforcement capability; direct funding for own budget; other issues which the committee determines; committee would recommend path to be taken, going to the Board of Supervisors or back to the electorate.

Member Brugmann stated he was against this proposal; problems are with implementation; proposal would weaken the ordinance.

Member Courtney stated rather than forming another committee to deal with this; request memorandum or opinion letter from City Attorney for lengthy, in-depth analysis of the strengths and weaknesses of the ordinance and strengths and weaknesses of the Task Force and then some suggestions and options of what directions we might take to change that.

Member Planthold stated there are problems with implementation of the ordinance; we could provide more specific and guidance for staff training; ask City Attorney for what is unclear or inconsistent or lack of clarity in the ordinance rather than for what is right or wrong.

Public comment from Richard Knee requesting broad representation on proposed review committee; provisions in Prop G for enforcement; feel proposal would be counter-productive.

Public comment from Gilbert Criswell stating in Prop G Board of Supervisors were to provide a budget for Task Force; City Attorney has not been supportive of Task Force.

Member Cauthen stated ordinance is complicated; ordinance working okay now; not ready to make a decision today.

Motion to table this item until such time as we have more of an idea of what is involved. (Cauthen/Planthold) (Appel, Ray, Hogan absent)

Motion requesting City Attorney provide to the Sunshine Ordinance Task Force a legal analysis of the strengths and weaknesses of the ordinance as well as the strengths and weaknesses of the Task Force's ability to enforce the ordinance; analysis to include recommendations regarding actions which can be taken to improve the ordinance specifically relating to the aggressive enforcement of the ordinance as discussed. (Courtney/Brugmann) (Appel, Ray, Hogan absent)

Member Courtney stated he wanted the City Attorney to keep in mind what is going on with the Williams complaint.

Jackie Minor stated the issue would become more specifically how we would work with you to share the results of the memo; it is a bit confusing now; concerned I not be requested to figure out the intent of the drafters; provided we have some leeway, I think I can work with you and get to you a document that outlines the significant improvements in access to information that Prop G has offered to the citizens of San Francisco, as well as areas where there is confusion because of lack of clarity in the ordinance; this is an opportunity for us to look more specifically at some of the implementation problems as well as pointing out where there have been some significant improvements on the part of the City.

Member Guillory stated he would like an aggressive interpretation of what enforcement opportunities we might have. Member Courtney stated he would agree with aggressive interpretation of current enforcement and the channels we would need to proceed to gain additional enforcement; how we might go about doing that; rather than talking about the strengths now, skip that for now.

Member Cauthen stated it would be a massive task to go to the voters now; should be mindful of the timetable if we decide to go to the voters.

Member Brugmann asked if term aggressive implementation would be accepted. Member Courtney agreed.

Public comment from Gilbert Criswell stating it would be prudent of the Task Force to ask the District Attorney for an opinion on enforcement on the Sunshine Ordinance.

4. Report of Administrator Donna L. Hall

Report given.

Member Brugmann requested tabulation be kept of calls that are received that are taken care of before they reach the hearing point.

13. Public Comment

Public comment from Gilbert Criswell commending Bay Guardian for their coverage of Task Force; commending Task Force for their work; suggest District Attorney do a presentation before the Task Force.

5. Report from Counsel

No report.

6. Resolution of the SF LAFCo Establishing Open Meeting Processes

LAFCo submitted a copy of a proposed LAFCo resolution establishing open meeting processes, stating they will comply with the spirit of the Sunshine Ordinance and will follow the Brown Act. Executive Officer Gloria Young requested the Task Force review the proposed legislation and inquire if the Task Force had any comments.

Comments made that policy should be to ask them to come under the Sunshine Ordinance; maybe they cannot do this, however would request they abide by Sunshine Ordinance; also comment regarding the sentence of the resolution stating all meetings shall be open and public; concern was stated about closed sessions being needed; Chair Bernstein requested we acknowledge receipt of the resolution.

Motion adopted as a matter of policy, from now on when the Task Force receives inquiries from groups that are not under jurisdiction of the Sunshine Ordinance, that the Task Force would like them to abide by the San Francisco Sunshine Ordinance. (Brugmann/Planthold) (Appel, Ray, Hogan absent)

Public comment from Gilbert Criswell regarding difference between the Brown Act and Sunshine Ordinance.

7. Order of Determination dated October 26, 2000, Complaint of Davis/Reno, representing Local 21, AFL-CIO, against the Human Rights Commission.

Jackie Minor excused herself and Buck Delventhal joined the meeting.

Janene Murtha, of law firm of Davis Reno representing Kevin Williams on behalf of International Federation of Professional and Technical Engineers, AFL-CIO, Local 21, addressed the Task Force stating the parties have stipulated that Virginia Harmon will sign a declaration stating that the one remaining document, handwritten ledger of comp time by Arcedo Briliantes, has disappeared and they cannot find the document. Davis Reno has agreed to do this with the condition that if they do not receive the declaration by the time of the next Task Force meeting they will have opportunity to return and have the Task Force take further action.



Member Cauthen stated the Task Force has made a couple of determinations and Task Force has done what they can do.

Member Courtney asked if Task Force should revise the Order of Determination since what would be acceptable is to receive the declaration from HRC. Buck Delventhal suggested the Task Force leave the prior Order of Determination on the table and continue this to the call of the Chair with the understanding if they do not receive the stipulation they are requesting, they may come to the Chair, and the Chair can place this on the calendar for the next meeting.

8. Report from Complaint Committee

No report.

9. Report from Public Education & Information Committee

No report.

10. Report from Rules Committee Chair Bob Planthold

Report of Rules Committee meeting of March 8, 2001

(a) Amending by-laws regarding reporting members' absences

Recommendation from Rules Committee to change the permissive "may" to the mandatory "shall" in Article VII—Attendance section.

Member Courtney stated we are having quorums and we are taking care of business; do not see urgency to do this; opposed to the recommendation; deal with persons on case-by-case basis; differentiate between absences that are excused or unexcused.

Chair Bernstein asked if we could keep the word "shall" and specify certain exemptions; or "shall, except for the following."

Member Brugmann stated he did not see the urgency; there has only been one minor blip so far.

Member Planthold stated some persons have legitimate reasons to be away; this should not be cast in one recent former member or another; but all prospective applicants for the future.

Member Cauthen stated she was in favor of permissive "may," and with wording "except for good cause."

Consensus of the Task Force to return this item to the Rules Committee and try to find some way insuring that we will have quorum and understand individual circumstances.

- (b) Notification to prospective SOTF members of attendance requirements.

Recommendation from Rules Committee suggesting for vacancy notices to let persons know they will be expected to not only attend regular meetings, but also to participate in committee work.  
Consensus of the Task Force that the recommendation of the Rules Committee be accepted.

- (c) Recommendation on clarifying the duties and authority of the Chair.

Recommendation from Rules Committee that the Chair of the Task Force, subject to the control of the Task Force, has general supervision, direction and control over the Task Force activities; and has such general powers and duties of management as shall reasonably be necessary to carry out the duties of the Chair.

Member Brugmann stated concern about Chair sending letter to Attorney General regarding the HRC issue and also the conflict of interest issue.

Chair Bernstein stated the letter in question was reviewed by the Task Force; they deleted the portion regarding the AG's interpretation of sole. They let stand the matter of HRC, so the Chair did not act without authority on this issue; the Chair has a conventional role that is found in Robert's Rules of Order and that is found in virtually every body that the Chair is empowered to act within the context of previously determined policy and action; not empowered to act on something that has never come before or was a new issue or will turn policy upside-down.

Member Courtney stated his understanding was we were able to correct the problem; the letter was going out; and were able to retrieve the letter; there is a conflict issue; it warrants investigation; want to address the issue of Chair acting without us; why are we trying to expand the role rather than trying to define the role.

Chair Bernstein stated she requested the Rules Committee to address this item; not aware this is a request for expansion of the Chair role; simply a restatement of what is ordinary and usual procedure.

Member Cauthen stated she is concerned about larger issue which is can the Chair act in congruence with our policies between meetings; Chair needs to have this latitude.

Public comment from Gilbert Criswell responding to members absences.

Motion to accept the report of the Rules Committee interpretation that the Chair of the Task Force, subject to the control of the Task Force, has general supervision, direction and control over the Task Force activities; and has such general powers and duties of management as shall reasonably be necessary to carry out the duties of Chair. (Planthold/Cauthen) (Brugmann no) (Appel, Ray, Hogan absent)

11. Report from Ad Hoc Committee Regarding Conflict of Interest

Member Guillory suggested this item be moved to the next Task Force meeting; important to have all members present. Consensus of the Task Force to move this item to the next meeting.

Member Courtney agreed to sit on the Ad Hoc Advisory Committee on Conflict of Interest.

12. Request for information from the City Attorney's Office on possible "conflicts with representation on the Sunshine Ordinance Task Force."

Chair Bernstein stated the letter was immediately referred to the City Attorney; information on response to the letter not yet available.

Member Brugmann requested in addition to the three requests "any City Attorney opinions involving the conflict of interest issue with the Sunshine Task Force and representation—something in writing on this issue."

Motion that the Sunshine Ordinance Task Force request the City Attorney assigned to the Task Force identify, with completeness and specificity, all other responsibilities that the deputy assigned to the Task Force has—or is expected to have or do—on behalf of the City and County of San Francisco, other than serve as the legal advisor to the Sunshine Task Force, as contemplated by Section 67.30 (a) of the Ordinance. (Courtney/Planthold) (Appel, Ray, Hogan absent)

Public comment from Gilbert Criswell affirming above motion.

Motion that the Sunshine Ordinance Task Force request written assurances that since January 1, 2000, that the deputy assigned to the Sunshine Ordinance Task Force has been "ethically walled off" from any matters within the City Attorney's Office that might in any way interfere with her ability to serve as an effective advocate for the Sunshine Ordinance Task Force, as contemplated by Section 67.30 (a) of the Ordinance. (Courtney, Planthold) (Appel, Ray, Hogan absent)

Member Guillory asked Deputy City Attorney Minor during what period she served as counsel to the HRC; Deputy City Attorney Minor answered from the "end of July 2000 until January 10, 2001."

Motion that the Sunshine Ordinance Task Force request written assurance that the deputy has not, since being assigned to the Sunshine Ordinance Task Force, provided any legal advice concerning the San Francisco Sunshine Ordinance, the California Public Records Act or the Brown Act to any employees, agents, departments or officials associated with the City and County of San Francisco other than the advice and counsel they are providing to the Sunshine Ordinance Task Force. (Courtney/Brugmann) (Ayes: Brugmann, Courtney) Noes: Bernstein, Kowalczyk, Planthold, Guillory, Cauthen) (Absent: Appel, Ray, Hogan) The motion failed.

Member Guillory asked Deputy City Attorney Minor if departments have come to her during her time as serving as Task Force counsel. Deputy City Attorney Minor stated "I was assigned to the Task Force before passage of Prop G the specific provision that we are talking about that has been a concern by some members of the Task Force exists only because of Prop G; for point of clarification and to make sure the response from the City Attorney actually addresses the concerns, you may be interested in narrowing question #1 to make it clear you are talking about post Prop G.:

Member Planthold stated he was uncomfortable with this motion because it seems our counsel's duty is to give legal advice to other departments when they ask what they should do.

Member Cauthen stated she read the minutes of the ad hoc committee, and what Tom Burke said is not really what our total understanding was—I think it was appropriate for counsel to answer questions in the interim period.

Chair Bernstein asked if the motion included training that was given to departments. Member Brugmann stated yes.

The meeting adjourned at 6:20 p.m.

Donna L. Hall, Administrator

\*Memo from Bruce Brugmann and transcript of portion of January 23, 2001 Sunshine Ordinance Task Force Meeting attached.

Date: April 24, 2001

To: The Sunshine Ordinance Task Force

From: Bruce Brugmann, member

Re: Correcting the record regarding our letter to the Attorney General asking for a legal opinion on a complaint filed against the HRC.

At the last meeting there was some dispute about what the facts are regarding our letter to the Attorney General. To clear up the matter I would like this memo, along with the attached transcript of the key portion of the Jan. 23 meeting of the task force, to be attached to the minutes of our last meeting.

1. At our Dec. 19, 2000 meeting we heard the complaints against the HRC filed by Dawn Clements and Henry Jamerson. Deputy City Attorney Amy Ackerman gave us an extensive memorandum, stating that in order to decide whether the HRC chair broke the law when she decided to remove Clements and Jamerson from an advisory committee, we had to decide which laws governed the decision. Ackerman gave us three possible sets of rules for the decision. When it was clear that we could not make that decision ourselves, I made a motion, on the advice of Ackerman, to ask the Board of Supervisors to formally request an opinion from the state Attorney General on the matter.

Task force members who were present voted unanimously to approve the motion.

Donna Hall recorded the motion in our minutes as follows: "Motion adopted that the Sunshine Ordinance Task Force request the newly elected Board of Supervisors ask the State Attorney General for an opinion on these two complaints regarding a possible violation of the State Brown Act and the Sunshine Ordinance. (Brugmann/Planthold) (Appel, Courtney, Mallare, Hogan absent)"

2. Sometime between that meeting and the next one, chair Hilda Bernstein decided to send the letter herself, instead of sending it to the "newly elected Board," and decided to add a second question, about how to interpret the Sunshine Ordinance's rules for the City Attorney assigned to the task force. Her primary question was: "Is the city attorney's office required to assign to the task force an attorney who solely advises the task force?"

3. At the Jan. 23 meeting (when I was absent), Bernstein said in her report to the task force that she had sent the letter directly to the AG, with the two questions. She said: "An inquiry asking for an opinion, or rather two opinions, has been sent to the State Attorney General, the first having to do with the sole assignment of attorney to the task force. And also, whether the appointment of members to the HRC Minority Women Business Enterprise Advisory Committee was done in accordance with state and local laws."

The discussion that followed at that meeting is laid out in the attached transcript. The transcript makes clear that:

- The task force never voted to ask the AG about the “sole assignment” clause.
- The task force never got to review the letter before it was put in the mail Jan 23. As Deputy City Attorney Jackie Minor said at the meeting: “The letter went out today and I’m just asking her if it could be retrieved, and she thinks it can be.”
- The letter was sent directly from the task force to the AG, despite the AG’s rules about requesting opinions, and despite the wording of the motion that we approved, requesting “the newly elected Board of Supervisors ask the State Attorney General for an opinion.”
- The letter was not included in my packet for that meeting, and it is my understanding that it was not in anyone else’s packet.
- At the meeting Judy Appel made it clear to the group that asking the AG that question was a serious decision that could lock the task force into one interpretation of the law, and that such a question should not have been asked of the AG without a vote. On her request, and with the support of several other members, Hall was asked to retrieve the letter, and to take out the “sole assignment” question.

4. Apparently after the meeting, Hall was able to retrieve the letter from the City Hall mail, and took out the “sole assignment” question. The letter was sent to the AG, who replied in a letter dated April 3 that he could not review the request because “we are unable to respond to requests from persons not specified in the [government code].”

The reply also says that the AG is unable to “resolve factual disputes or interpret local ordinances.” I would like to point out that our request included the state Brown Act.

In light of this history I am requesting that the task force pass a motion to send the letter in the proper manner, asking the Board of Supervisors to formally request an opinion, per the established rules published by the Attorney General’s office. Because of the complicated nature of the complaint, the letter written by our city attorney should have attached to it the Feb. 6 letter from attorney Raymond Willis providing his legal view of the complaint. The two together will give the AG the information he will need to understand the question at stake and hopefully resolve the issue.

Thanks very much.



Transcribed is the discussion on item # 2, the report from the chair, in which the task force discussed a letter sent to the state Attorney General asking for a legal opinion.

Hilda Bernstein: The next item is the report from the chair, and it's very brief, let me tell you for those of you that don't already know, Jackie will remain as counsel to the Sunshine Ordinance Task Force. She no longer is counsel to the Human Rights Commission, that followed several conversations with city attorney Louise Renne. I attended the meetings of the ad hoc Conflict of Interest Committee on January 3rd and that of the Complaint Committee on January 16th. For a variety of reasons, neither the Education and Outreach nor the Rules Committee met in January. Nevertheless, committee work continued. I will leave the chairs to speak to the accomplishments of their committee. And I have asked the ad hoc Conflict of Interest Committee to expand their purview to include potential conflicts - these are the members of the task force as well as those of our elected representatives. To this end, they are reviewing many reference sources.

An inquiry asking for an opinion, or rather two opinions, has been sent to the State Attorney General, the first having to do with the sole assignment of attorney to the task force. And also, whether the appointment of members to the HRC Minority Women Business Enterprise Advisory Committee was done in accordance with state and local laws.

Anita Theoharis, who has been out of the country has now returned. I expect to meet with her very soon. You will recall that many of the questions we had regarding the response of the staff of the planning department was resolved as a result of meeting with Gerald Greene, but one issue remained, that has to be resolved by Mrs. Theoharis, that is the placement. And that is the placement of the public participation on their agenda. Several months ago it was moved to the end of the agenda, and some of us are concerned that that becomes a deterrent to participation since nobody knows when the end will be coming. So that is what we want to speak with her about. I also responded to a letter from Hillary Gittleman of the Planning Department who was critical of our failure to include her in the e-mail discussion, and I think she was correct in raising those concerns. I think we need to be a little more careful of being inclusive to all the parties to whatever is going on. Members who missed two meetings were sent letters reminding them of the three missed meeting rule. And because so much of our work is done at the committee level, I've asked the rules committee to look into extending the three missed meeting rule to committees. I expect to meet with Supervisor Gonzalez, as a matter of fact, a meeting has been set for next week, to bring him up to date about what this task force has been doing, and what some of the problems are that have emerged as we have gone along. In closing, I want to congratulate the members of the task force. We've begun to get positive feedback from the community as well as from city departments. As we gain more respect, our tasks will become easier. I believe that the reorganization of the task force and the implementation of the committee system have been prime factors in achieving the results thus far. This is not to say that we are the best we can be, but certainly I believe we are moving

1

in that direction, and I think that reflects the efforts and the participation of everyone on the task force, and I am so proud - take a look at the press release that we got out. That's done by Paul, and I think it's quite an accomplishment for us, and it indicates that we really are moving. Now we have to make certain that it's used. That's the end of my report. Jackie, is there anything you want to clarify on anything I have reported on?

Jackie: no, Madame Chair, no specific clarifications, just wanted members of the task force to know that the various letters that you referenced in your report are available if they'd like copies of them.

Bob Planthold: This is Bob Planthold. That was the question I was going to raise: Who should we seek copies from? of these letters to the state Attorney General - from Donna, our administrator, or because you'd volunteered as counsel, but - go to Donna for that? Alright. Thank you.

Jackie: Certainly, Donna will have file copies, the official file copies of all the correspondence.

Hilda: I want to urge everyone where you have anything of any kind of official record that you make certain that Donna has a copy of it so that we begin to develop some history of what we're doing here. Okay.

Judy: I have a comment. I guess I have a question about process. We had a discussion in our conflict committee about the possibility of addressing the state Attorney General, and others regarding an opinion on the sole attorney issue, and I feel like it's my - I know that no decision was reached there and in fact there was some strong opposition to doing that and so my understanding at the end of that meeting was that we were going to have Jackie investigate the process involved in asking the Attorney General for an opinion. I think that doing so sends a message and ends up locking us in, and I'm really opposed to having done that so I'm kind of curious to know how that decision was made, who made it and I think that we need to come up with a process so that before we go to the Attorney General and make that decision, that decision is made by this full task force and not by any one individual member.

Hilda: That was not my impression, if it had been, I would not have included the question regarding sole assignment. I was under the impression, and am under the impression that we were going to try to get information from a variety of sources and their interpretations thereof. And I recall you were going to talk to some people and some other people were going to do that.

Judy: There's two very different issues: talking to private attorneys to get a private opinion on this, and going to the Attorney General to try to get something that appears to be an official opinion from the state, which tends to be generally antagonistic to our local sunshine laws, to our local, more progressive laws, and the Attorney General, Lockyear, is bound to come down with the most conservative response, and then we'll be locked into it, because that's an Attorney General position. I feel really certain that we didn't vote on it, because there would have been more discussion and I would have opposed it adamantly. I would have insisted that it came to this full task force.

Hilda: It could be that you're right and I'm wrong, but it was not done with malice aforethought.



Judy: But what can we do about it now? Because I don't want to get an Attorney General opinion about it.

Hilda: Okay, let's hear what Vince has to say about it.

Vince: I don't have anything to say about what we'll do about it now, but Judy's right, absolutely.

Hilda: Okay.

Judy: So is there anything we can do at this point to withdraw that request from the Attorney General? I don't want to get an opinion that's going to lock us in at this point before we've decided as a full task force exactly what we're going to -- what we want to do.

Jackie: I'm just checking in with your administrator. The letter went out today, and I'm just asking her if it could be retrieved, and she thinks it can be.

Hilda: Okay, so we'll block that.

Judy: Can we do that? Thanks.

Hilda: Sure. No problem.

Bob Planthold: I don't understand how and why there's the assertion made that simply an opinion from the state Attorney General is going to lock us into something. I mean, I think soliciting it is helpful, but I've heard votes taken at our Board of Supervisors where a board member will say, "Well this is the opinion of the City Attorney, but it's only an opinion, and I'm going to vote my own way even if in conflict with the advice." I didn't see or remember or hear that we were not going to solicit the AG; we were going to do a wide solicitation. But simply asking his thoughts, I don't see that it's binding necessarily. It may be persuasive, but I don't want us to rescind or withdraw any request for an opinion from that other source. We could take it for nothing if we so choose.

Judy: As a lawyer, an AG's opinion does not hold the same weight as an opinion from a private attorney that I might solicit. In fact, you of all people, were opposing my even requesting of a private attorney and we made sure that that wasn't going to be an official recommendation, but maybe just some input. And in asking for an official opinion from the Attorney General is distinct, legally, if in fact there's any question about this in the future. I'm not saying that we never should, but the request of the AG of something of this import, apparently, to members of this committee, is a decision that needs to be made by this full task force. And Hilda is saying that she didn't mean to, there was no mal-intent, she was just asking another lawyer, and I totally believe her, but the AG is not just another lawyer, and I would strongly request that if this is something we want to do that this come up in front of this task force in a properly noticed fashion, for a full vote and discussion, asking the AG for his opinion is not a light matter and I don't think we should do it without a vote of this full task force.

Sue: I just wanted to comment on what happened. We got, I found the pleadings quite complicated, at the last minute we got another one, which I personally

didn't have time to digest, and I'm usually pretty fast at this kind of stuff, so I was kind of stumped. And I was thinking we can't abstain, what are we going to do? Fortunately, Bruce suggested we buck it to the AG. I thought well, that's better than voting on something that I don't really feel prepared to vote on. And one more comment -- we did have some advice from our counsel who wasn't Jackie. But we only had advice as to our alternatives. We didn't have advice to what a ruling would be, and in something this complicated, at least I felt was really complicated, I would like guidance from both our attorneys on the board and our official counsel.

Judy: Just for clarification, my opposition wasn't to number two, which I understand there was some discussion about at the full task force meeting in my absence, my objection is to number one, which has to do with the sole assignment of the attorney, I don't believe there's any pleadings on that. It's a discussion we've begun in our Conflict of Interests Committee about whether or not - the language in the ordinance - there's some disagreement about the interpretation of that language, as to whether or not we have the right to an attorney that's only assigned to our task force and has no other assignment within the City Attorney's office, and that's something we're still grappling with. And before we go to the AG, I'd like to have more clear where we want to go with that.

Ted: Judy's right.

Hilda: Okay, you agree with Judy. Anything else? Anybody else want to comment on this?

Ted: I just have a question - what's the final decision here, after we leave this? Do we need to make a motion? We can't make a motion, I'm sorry --

Hilda: We can't make a motion, it's not an action item.

Vince: With respect to administration - so we're trying to retrieve the letter somehow? What I'd like, I'd like is to find out right away if that has in fact occurred, or right away if we somehow failed to do that rather than waiting until next month.

Hilda: Well then Donna would have to leave and that would hold up what we're doing here.

Vince: no, no, I'm sorry, maybe I misstated. I would like to know, I would assume that we'd take care of that immediately, but not at this very moment, but say for example we're successful at retrieving that letter tomorrow, I would like notice whether by e-mail or however. I don't want to wait until I get my ---

Hilda: If in fact I misinterpreted, I certainly have no problem with correcting it, and I have been advised that I have misinterpreted, so what we will do is excise that from the letter that is going to the Attorney General.

Judy: Thanks Hilda.

Hilda: Okay, does that answer your question, Vince? yes?

Vince: Yes it does.

Hilda: Okay, we'll move on now. Any public discussion on this before we go on to the next item?

Gilbert Criswell: (member of the public): Hi, my name is Gilbert Criswell, and I did attend that meeting, and I disagree with your task force member. This IS the Sunshine Task Force, you want to get as many opinions as possible, and I agree with your task force member, Mr. Planthold, that said that what harm would it be to get an opinion from the Attorney General. Now, I'm no lawyer, but this is the task force and I believe that this task force instead of more roadblocks and do nothing, that you actually have done something by requesting that from the AG, and I don't see what the problem is in holding up that opinion from the AG. Now I'm just speaking as a member of the public and somebody that ran for supervisor in District 6, but you know that I feel that getting an opinion from the state AG would number one, bring new light to the task force, as well as involve the state in budget concerns regarding this task force, and meeting other budget needs of the city and San Francisco. Thank You.

Hilda: As I understand it, the issue is not whether or not it should eventually go to the Attorney General, but whether or not I acted prematurely before there was a vote taken by this task force. Perhaps it may yet go, or it won't go, but for the moment, we're going to remove it from the letter. So until there is further discussion by the full task force and the decision is made by them, we will go now. There is a report from the city administrator on semi-annual progress of the records index. This is a discussion item.

END DISCUSSION on letter to Attorney General





## SUNSHINE ORDINANCE TASK FORCE

### REGULAR MEETING

### AGENDA

Tuesday, April 24, 2001  
4:00 p.m. City Hall, Room 408

#### Task Force Members

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Judith Appel           | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Vacant                 | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hajazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

#### Roll Call

#### Agenda Changes

1. Approval of Minutes of March 27, 2001 (5 min)

Action item

DOCUMENTS DEPT.

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2. Report from Chair (Hilda Bernstein) (10 min)

- (a) Letter to Deputy City Attorney Buck Delventhal regarding Clements/Jamerson complaints
- (b) Letter from Bruce Brugmann
- (c) Memo to Board of Supervisors Rules Committee regarding ethnic makeup of Task Force
- (d) Other agency compliance with Sunshine Ordinance

Discussion item

3. Further hearing on the complaint of Dawn Clements and Harry Jamerson related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission (20 min)

Action item

4. Sunshine Ordinance Task Force Index and Retention Schedule (Donna Hall) (5 min)

Action item.

5. Report from Public Education & Information Committee (Paul Hogan, Chair) (5 min)

Report of Public Education & Information Committee meeting of April 10, 2001.

Discussion item

6. Report from Rules Committee (Bob Planthold, Chair) (5 min)

Report of Rules Committee meeting of April 10, 2001  
Amendment of By-Laws relating to attendance

Discussion & possible action item

7. Report from Ad Hoc Committee Regarding Conflict of Interest (Bob Planthold, Chair) (5 min)

Report of Ad Hoc Committee meeting of March 9, 2001

Discussion item

8. Request for information from the City Attorney's Office on possible "conflicts with representation on the Sunshine Ordinance Task Force." (Bruce Brugmann)  
(5 min)

Discussion and possible action item

9. Report of Administrator (Donna Hall) (5 min)

Discussion item

10. Public Comment (20 min)

## **ADJOURNMENT**

**Next Regular Meeting May 22, 2001, 4:00 p.m.**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
TUESDAY THROUGH FRIDAY, ROOM 409, SUNSHINE ORDINANCE TASK  
FORCE OFFICE**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **Cell phones, pagers and similar sound-producing electronic devices**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

## **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at [Donna\\_Hall@ci.sf.ca.us](mailto:Donna_Hall@ci.sf.ca.us).

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>



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Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE

REGULAR MEETING

MINUTES

Tuesday, April 24, 2001  
4:00 p.m. City Hall, Room 408

DOCUMENTS DEPT.

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Roll Call

All present: Appel, Bernstein, Brugmann, Cauthen, Courtney, Guillory, Hogan, Kowalczyk, Planthold, Ray.

Member Judy Appel submitted her resignation effective after this meeting. Chair appointed Daniel Guillory to serve on the Complaint Committee. Third member of the Complaint Committee will be Paul Hogan.

Agenda Changes

Items 6 and 7 moved ahead of Item 5.

1. Minutes of March 27, 2001

Motion adopted approving minutes of March 27, 2001 with attachment submitted by Bruce Brugmann. (Hogan/Ray) (Courtney no) (Attachment attached)

No public comment.

2. Report from Chair

(a) Letter to Deputy City Attorney Buck Delventhal regarding Clements/Jamerson complaints

Deputy City Attorney Jackie Minor excused herself from this item; Deputy City Attorney Buck Delventhal answered questions of the Task Force.

Chair stated the issue seems to be if the appointment was correctly made by the Chair of the Commission, or if the Commission should have made the appointment.

Deputy City Attorney Delventhal stated there are two issues--who had the authority to make these appointments and the other is a claim of somehow there was a violation of the Brown Act or the Sunshine Ordinance in terms of communications outside of meetings; in terms of who had the authority to make this appointment, it is not within the scope of the jurisdiction of the Sunshine Ordinance Task Force; if it is demonstrated that the chair of the Human Rights Commission did consult with a majority of the members of

the Commission outside of a meeting, that is something you do have the authority to sort out and provide a remedy. The Chair suggestion that this item go back to the Complaint Committee and the Committee ask persons from the Mayor's Office and HRC to explain which committee this is, is the appropriate place to sort this out.

Bruce Brugmann stated there is a serious problem here of conflict of interest regarding the City Attorney. Would like to redo my original motion to send this item to the Board of Supervisors, then to the City Attorney, then to the Attorney General.

Deputy City Attorney Delventhal stated he thought it was very unlikely the Attorney General would answer this question even if the City Attorney did ask for the advice; there is a factual dispute about which committee this person is on, and the Attorney General is not going to sort out that issue of local law; there is a factual dispute between the chair and Ms. Clements about what happened; what the Attorney General will tell you, as we have told you, is if the chair of the Human Rights Commission talked to a majority of the members about this appointment outside the meeting, that is a violation of the Brown Act, and if she didn't, that isn't a violation, and the Attorney General will not get into deciding these facts.

Motion to refer to the Complaint Committee to analyze and suggest further action. (Hogan/Courtney) This was a discussion item. Not voted on.

Deputy City Attorney Delventhal stated he would undertake to get people from the HRC who know the history of these committees to come before the Committee to see if we can sort this out.

Chair sending this item back to Complaint Committee to review the core issue and bring it back to the full Task Force; to come before the Task Force again.

- (b) Letter from Bruce Brugmann regarding additional questions—see Item 8.
- (c) Memo to Board of Supervisors Rules Committee regarding ethnic makeup of Task Force
- (d) Other agency compliance with Sunshine Ordinance

Public Education and Information Committee to continue work on outreach, including contacting the School District regarding their discussion of implementation of the Sunshine Ordinance.

No public comment.

- 3. Further hearing on the complaint of Dawn Clements and Harry Jamerson related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission

Chair Bernstein stated Claimant Dawn Clements declined to appear. Claimant Harry Jamerson was not present. This item referred back to the Complaint Committee for review and will come back to the full Task Force.

No public comment.

- 4. Sunshine Ordinance Task Force Index and Retention Schedule

Administrator Donna Hall submitted the Records Retention and Destruction Schedule for the Sunshine Ordinance Task Force. Motion adopted approving the schedule. (Appel/Planthold)

Public comment from male speaker asking about the records index. Deputy City Attorney Minor explained the index process.

6. Report from Rules Committee

Chair Bob Planthold stated it was the recommendation of the Rules Committee for a by-laws amendment relating to, Article VII, Attendance, changing from three to four if a member of the Task Force misses meetings in a twelve-month period of time; and changing from may to shall to notify the Board of Supervisors and request action be taken to remove the member from the Task Force.

Comments from Members Brugmann asking if other groups have these kinds of regulations; this is another measure for the Chair or whomever to bounce people from the Task Force; would recommend this go back to committee and a survey be done of all the rest of the task forces in the city abide by; from Member Cauthen regarding the importance of having quorums; I was for expanding the number of meetings missed to four and then using shall; from Member Courtney opposed to one month dealing with expanding the powers of the chair and now dealing with this; take a look at what some of the other commissions have done; would like to see a survey; would like to see some other language that dealt with the chair; we do have an attendance policy in place.

Member Hogan stated one of the reasons why we have been able to conduct business as efficiently as we have is because we did adopt quite stringent attendance policy in by-laws; Member Hijazi stated when she was staffing a commission, because they faced problems of a quorum, they placed restrictions on attendance; Member Planthold stated the notification is something that already exists—if the recommendation is approved, you could miss one-third of the meetings; seems reasonable to raise the question of frequency of attendance if you miss one-third of the meetings; this doesn't call for a recommendation for removal, just reporting.

Member Appel stated we might want to stated that if a member of the Task Force misses more than four regular meetings in any twelve-month period of time, the Task Force may request that action be made to notify the Board of Supervisors; my opinion is that our current policy is fine.

Moved to adopt recommendation as recommended by the Rules Committee (Hogan). No second to the motion.

Member Appel stated when we first discussed the initial language was to allow a degree of respect and a manner to recognize individual circumstances, and enough of a rule in place that people would know it was important to attend, and not to be reported to the Board of Supervisors if they missed three or four meetings in a year; not aware of a full Task Force meeting where there hasn't been a quorum; feel these amendments show a lack of respect for the members of the Task Force.

Member Planthold stated the Task Force tried several years ago to find out how many public bodies there are and couldn't find out then, and the Grand Jury did a list and it is still growing and still unknown; Rules Committee had information and examples that we culled down to use for our recommendation; the closest example that we came up with, but not the sole, was the Asian Art Museum; we are not just picking and choosing.

Member Courtney stated that after having given additional powers to the Chair, at least we should have some examples. Chair Bernstein stated that "when persons express an opinion that they make certain that it is an opinion, that we do not speak as if we are talking for everybody—think it is valid for you to think that the powers of the Chair have been extended and expanded—it is not necessarily the view of everybody else."

Deputy City Attorney Minor stated the Rules Committee looked at examples of by-laws of about ten commissions and task forces; could make these available for members of the Task Force.

Moved to return this item to the Rules Committee and request the Deputy City Attorney to review other by-laws from other commissions and task forces on how they addressed attendance. (Appel/Brugmann) (Ayes Appel, Brugmann, Courtney) (Noes Ray, Bernstein, Kowalczuk, Planthold, Guillory, Hogan, Cauthen) The motion failed.

Member Hogan spoke against the motion to refer back to the Rules Committee.

Motion adopted to adopt the recommendation of the Rules Committee for the amendment of Section VII of the By-Laws, as drafted. (Hogan/Cauthen) (Ayes Cauthen, Hogan, Planthold, Kowalczuk, Bernstein) (Noes Guillory, Ray, Courtney, Brugmann, Appel)

Moved to call the question. (Hogan) (Ayes Kowalczuk, Bernstein, Planthold, Hogan, Cauthen) (Noes Guillory, Appel, Brugmann, Courtney, Ray) The motion failed.

Member Brugmann stated the Sunshine Ordinance Task Force should not take these policy decisions without a certain amount of work and research and survey results laid before us so we can discuss the alternatives right here at this meeting and not take these kinds of decisions without that kind of research.

Member Hogan stated the Rules Committee has looked at this twice; the Task Force has taken action on this once; if this issue has not come up yet, I think this is somehow indicative of people not paying attention until now; any call to delay this is just a simple political move because somebody does not like this; do not think this is a policy decision that has not had adequate consideration by this Task Force and by committees doing the work of this Task Force; think it is very important to require the members of this Task Force not to just drop in and to use this as a political vehicle to further whatever interest they may have and to require attendance and participation at the meetings; think we have had enough discussion and debate.

Member Hijazi left the meeting at this time.

Member Planthold stated it was the recommendation of the Rules Committee for the following recommendation for attendance at committee meetings:

Members of committees shall notify the Task Force Administrator if she or he is unable to attend a committee meeting. If a committee member misses more than four regular meetings in any 12-month period of time, the committee chair shall notify the Task Force Chair. The Task Force Chair shall contact the committee member regarding their interest or lack of interest in serving on a specific committee.

Motion adopted approving the recommendation of the Rules Committee. (Cauthen/Hogan) (Ayes Courtney, Bernstein, Kowalczuk, Planthold, Guillory, Hogan, Cauthen) (Noes Ray, Brugmann, Appel)

No public comment.

10. Public Comment

Female speaker spoke regarding what the Task Force is doing is fantastic.

Emeric Kalman spoke regarding publication of notices in the newspapers difficult to read; not user friendly; requested information on contract; need representation from the District Attorney regarding complaints. Deputy City Attorney Minor stated the City Administrator administers the

contract for publication. Member Hare stated the cost of publications is around \$600,000 for all publications; all agendas of the Board and Board Committees are published in their entirety.

Marie Harrison spoke regarding printing of entire agenda—do you print the results—is Independent the only newspaper that has the contract? Deputy City Attorney Minor stated the Independent has the contract by an ordinance passed by the Board of Supervisors; actions are posted on the internet and through the Clerk of the Board.

Male speaker spoke regarding contract of publication; at the onset were very readable.

Marie Crispie spoke regarding her pleasure of the Sunshine Ordinance Task Force.

Member Kowalczyk left the meeting at this time.

7. Report from Ad Hoc Committee Regarding Conflict of Interest

Committee Chair Member Planthold stated the last meeting of the Ad Hoc Committee was March 9 at which time Member Guillory was requested to prepare a report summarizing the City Attorney's role vis-à-vis the Task Force; the Committee has not met since that time. The next Committee meeting will be set soon and will be down to three members with the resignation of Judy Appel.

No public comment.

5. Report from Public Education & Information Committee

Committee Chair Hogan reported the Committee will be working with the Task Force Administrator to draft a letter to neighborhoods; already have three outreach meeting scheduled, May 15 with the Coalition for San Francisco Neighborhoods; June 10 League of Women Voters Meeting; June 27 Democratic Central Committee.

Member Planthold requested the Committee look into setting meetings with other partisan groups also.

No public comment.

8. Request for information from the City Attorney's Office on possible "conflicts with representation on the Sunshine Ordinance Task Force."

Member Brugmann stated from last meeting I asked questions in writing of the City Attorney; I put it in motion form for two sets of questions; the City Attorney replied on April 11; she answered one of the questions, what duties the Deputy has been assigned to other than her work with the Task Force, but she avoids another; still do not have any specific evidence of what the Deputy was doing with the Human Rights Commission; have with us another letter of April 19 from Western Select Securities and Dawn Clements raising other specific issues of the Deputy's conflict of interest; not a personal criticism of Jackie Minor as the Deputy assigned to the Task Force; do not see how any of us can move further until we have answers to specific questions.

Member Brugmann stated questions are "to explain, with completeness and specificity, what Ms. Minor did for the Human Rights Commission during the six months she was assigned to work there; to explain the City Attorney's position on whether it posed a conflict for your office to have Ms. Minor assigned simultaneously to the Task Force and the HRC; and request that the Task Force again ask the City Attorney to provide written assurances that the Deputy City Attorney has been ethically walled off from any matters within the City Attorney's Office."

Deputy City Attorney Minor stated "the work I did for the Human Rights Commission, the hours associated with the work I did for the Human Rights Commission, clearly covered by an attorney client privilege, it will not be disclosed to this Task Force, that is not information you are entitled to have; what I have done for today is to prepare a document that lists the three Human Rights Commission Sunshine complaints that were filed during the last six or seven months or so; in each of the three discussions of those complaints I do state whether or not I advised the Human Rights Commission on that matter; prior to my assignment to this Task Force, it was my understanding that previous Sunshine Ordinance Task Force had made a decision that it wanted no attorney client privilege relationship with the City Attorney's Office and specifically asked that no communication from our office be considered subject to the attorney client privilege; I am aware of no other City department or agency that has authorized the City Attorney to waive its privilege, and all the questions asked in Question 1 would result in a waiver of the privilege that HRC has."

Member Brugmann asked if the Deputy City Attorney could answer any of the questions in Question 1. Deputy City Attorney Minor stated she would not waive the privilege her client holds. Member Brugmann stated the City Attorney should not put our Deputy in that position in the HRC. Deputy City Attorney Minor stated "there is nothing I read in the Sunshine Ordinance that would compel the City Attorney's Office in order to satisfy your interest in knowing what is happening at the HRC to waive a privilege that the HRC has, specifically for anything that is not sunshine related; you have a number of attorneys on this Task Force, and I think any attorney on this body would indicate to you that the subject matter of an assignment performed by an attorney for a client is subject to a privilege."

Member Brugmann asked "why did not the City Attorney inform us that you were at the HRC and would have these dual conflicts so we would have been able to judge this at the time and not have to deal with all of these complains coming down the pike; if that was the case, if you were there and were doing things that you couldn't talk about because of attorney client, why didn't you disclose to this group that you had these conflicts—or the City Attorney—I am talking about the City Attorney—I am not talking about you personally."

Deputy City Attorney Minor stated "I understand that; I work for the City Attorney; I am the Deputy who is assigned to advise this Task Force; the issues that are being raised by this Task Force as it relates to interpretation of the Sunshine Ordinance, I do not take those personally at all; unfortunately, members of the public, certain members of the public, reading about the concerns that have been raised by this Task Force, have in fact undertaken a personal campaign of attack which attacks my integrity, my veracity, and I do think my license to practice law, I have a license to practice law in three states in this country; it is being jeopardized because questions are being raised about whether the Deputy assigned to this Task Force is violating the law; the interrogatories, the questioning, they are legitimate questions, but I do think you do need to understand that to the extent this is translated by uniformed members of the public into personal attacks on Jacqueline Minor and her license to practice law is put at jeopardy because of these unfounded allegations, letters that are factually inaccurate; I do take that personally, and I have to take that personally because I am the one who passed the bars in three states, not the City Attorney."

Member Brugmann asked if she could give us assurances in writing, the City Attorney, that you or whoever replaces you will have an ethical wall around you and that there will be proper disclosures in the future so this action doesn't happen to you or anyone else. Deputy City Attorney Minor stated the City Attorney was contacted at the end of September by the Chair of this Task Force initially raising the question about my assignment at the HRC. My assignment at the HRC was not a secret, there was no effort to be covert about it, it was a very public assignment.

Member Appel stated at this point the City Attorney has removed Ms Minor from the HRC and has limited the activity of the person who is assigned to the Task Force to pretty much the Task Force; not a smart decision on the City Attorney part to place the attorney for this Task Force to a



commission that was very much in the public eye; I have complete confidence in Ms Minor's integrity; every time something came up before this Task Force that involved a complaint that took place during the time she was a member of the Task Force, someone else stepped in; concern to me that Ms Minor become a target of a mistake the City Attorney made; as an attorney I feel that Ms Minor has no choice but to not reveal that information; feel Question 3 which is a question to the City Attorney if she will follow through with our request is very appropriate; sorry to hear Ms Minor is becoming personally a target.

Chair Bernstein stated it was a gross mistake to place Ms Minor in that position; disclaimers to the contrary, the attacks are personal, there is no way to separate that out.

Member Courtney stated "I was attacking what we were doing with the Chair and the powers of the Chair, and that was not a personal attack; Jackie sits in that chair; very sympathetic with Jackie; bad move that she was placed in this position; concerned about an inherent conflict within the City Attorney Office; the fact they share data bases, computers; do not think an ethical wall can be put up between Jackie Minor and Catharine Barnes that doesn't still jeopardize the complainant's position; will go back to the matter we had with the Planning Commission; someone was able to access information on the item prior to our hearing; the lawyer on the Planning Commission shares office space with Ms Minor; having a City Attorney who really is not an advocate for sunshine is preventing us from doing our job and preventing the complainant from getting a real fair shake; I like Ms Minor but do not think she is really our lawyer; when the Planning Commission or the HRC, or whomever comes up against the complainant, in all honesty, no matter who it is from the City Attorney's Office, I think it is their lawyer."

Member Planthold left the meeting at this time.

Member Ray left the meeting at this time.

Chair Bernstein stated the way you get absolute and total assurance of impartiality and total commitment is if you have a budget and hire your own attorney.

Member Cauthen stated disappointed about lack of civility of the Task Force; when deliberations appear in the Bruce's paper and not in any other paper, people read them uninformed, and the person who gets pilloried is Ms Minor and I think she is an innocent victim of circumstances.

Member Guillory stated a lot of these issues of conflict of issues are being addressed in the Ad Hoc Committee; we will be coming back with information on the general conflict of interest issue; secondly with what has already taken place, the meetings with the City Attorney have at least changed the situation going forward; don't feel we need to continue to revisit the history of what happened last year; the only remaining complaint is the Clement complaint; feel comfortable that Ms Minor's involvement with HRC has not had any compromising effect on our ability to make a determination in this matter; in going forward there are things to talk with the City Attorney about, and that is why we have this ad hoc committee; revisiting the history is not the best use of our time.

Member Hogan stated "we are in an election year for the City Attorney, and there are people on the committee who have very well known points of view on that issue; what I object to in these proceedings is my time as a member of the public trying to guarantee the public access to records, documents and meetings, used to create news in order to embarrass the City Attorney; I have not taken a political position one way or the other; however, I can see through these proceedings into what they really are for and I really object to them going on at all; I would hope we could get to the business of the public guaranteeing them access to records and meetings and quit with this political shenanigans at these meetings."

Member Cauthen stated she read the minutes of the Ad Hoc Conflict of Interest Committee and it is very clear, Thomas Burke said, that there was never the intention that the Deputy City Attorney

would be assigned solely to our group; he did say the ethical wall was important; and he did say other matters in this vein were important; it was never the intent of the framers of the ordinance that the attorney would be solely our attorney.

Member Appel stated she apologized for statements without having something to back it up; respects the members of this committee; "I do not think the issue of conflict of interest with regard to the City Attorney is just a political move of the Guardian; this is core in many ways of resolution of the many issues we are talking about; there are issues about whether or not the City Attorney can really act as our counsel in these issues or whether or not they have a conflict between trying to limit the liability of the City and the departments and provide the greatest access possible; this campaign to make sure to ensure we have real counsel is important and key to the very heart of this committee and not just a political issue; feel it is dangerous for this committee to be disturbed by the fact that there is one newspaper in this town that is paying attention to this issue; none of us would be here if we didn't think that it was an important; the Guardian is the only newspaper in town that cares about this issue; we should applaud the fact that someone is watching."

Member Brugmann stated "these are major policy issues; want to make sure this Sunshine Ordinance Task Force and Sunshine Ordinance works; no political career; not running for anything; issue is a matter of policy, citizen participation and open government; the reason I have asked these questions is to make the point that the very fact that Ms Minor cannot answer the questions because of attorney client illustrates my point; she should never have been put into that position; asked there be written assurances there would be an ethical wall; when we wrote the Sunshine Ordinance we thought about this ahead of time and put the word solely in there so this would not happen; so the Deputy here would not be the Deputy somewhere else, particularly the HRC; whether or not the Task Force wants to pursue these questions, I recommend the City Attorney answer the questions because there is a public forum and it is important that the City Attorney be as unconflicted as possible and be able to operate on an independent, unbiased basis."

Deputy City Attorney Minor stated "I spent 20 years in the private sector, 17 years at Pacific Bell, my last five years at Pacific Bell I reported to the General Counsel and the Board of Pacific Telesis, the holding company, because I was asked to lead an organization that would company-wide correct compliance issues related to the PUC; in the five years that I did that job at Pacific Bell, there were no citations by the PUC; the five years prior to my doing that job, \$50 million in citations against Pacific Bell for various non-compliance issues as a public utility; I tell this because it is important that you understand a little bit about my background."

Deputy City Attorney Minor stated "I think since I have been in this job and since I have been advising this Task Force, and certainly since the enactment of Prop G, this City has fundamentally changed the way we respond to public records; people are not lined up outside this door filing complaints; the issues when I first attended the Sunshine Task Force meeting in April 1999, Judy Appel was on the other side representing the Coalition on Homelessness on issues related to the deliberative process privilege; the Coalition on Homelessness has not been back here; is it perfect, no it is not perfect; are there issues related to getting documents to citizens, opening meetings, yes, there are still some issues, we still have a long way to go; we have fundamentally as a City improved greatly the way we are responding; the fact that this Task Force exists that you are more effective as a body also has given me both a carrot and a stick to facilitate citizens getting access to records and meetings, and it is much better, and I think you have to applaud the work you have done and be careful the relationship you have with the Deputy City Attorney assigned to this Task Force continues to be a relationship that is collaborative, where we work together; I am an old fashioned attorney, I believe that I have to be an attorney who works at will; if I don't meet your will, I should not be here."

Deputy City Attorney Minor stated "I want no protection to insure that I have a job; if I can't function effectively advising this Task Force, I really don't want to be here, I want to be reassigned; at the same time I cannot come to a meeting, I cannot continue to provide a level of



support, not only for this Task Force, but for the function of public access in the City, which I believe is so important, if I believe that I am being attacked and undermined by my clients, and you are my clients; I think we do need to work together; we need to support each other in this effort; if we continue to do that we are going to improve access for all the citizens in San Francisco."

Deputy City Attorney Minor stated "the letter dated April 19, again I want to be very clear that I have been a City employee for two years; if I could have engaged in half the mischief that is represented in this letter, I would have been a very busy bee for these two years; it is factually inaccurate, and because it is factually inaccurate it leads the writer to inaccurate legal conclusions and to requests on the part of this Task Force which is just fundamentally faulty, and there is no basis involved for it."

Deputy City Attorney Minor stated "Bruce has asked for written assurances that there is an ethical wall; I wasn't sure how to treat this request because we do not have a document in the City Attorney's Office that outlines an ethical wall; in January this year when Louise Renne contacted Hilda and indicated that I was going to be assigned to this Task Force and I would be taken off various other assignments that conflicted with providing sunshine advice, that was a representation about what my assignments were going forward since January 2001; I am not sure what additional assurances this Task Force needs over and above the word of the City Attorney as an elected official to the Chair of this body; I don't have such a document; if this Task Force believes it wants a document from Louise it should send a request directly to her."

Member Courtney stated "I refer to the letter that we received November 27, 2000 from Louise Renne, privileged document, fifth paragraph, regarding the ethical wall, 'whenever such a wall is established, the deputies on either side of the wall must refrain from accessing the files of deputies on the other side or communicating with deputies on the other side.'" Member Courtney stated "that is when a wall is established; so, Catharine Barnes representing the HRC, Sunshine trying to give Kevin Williams a fair shake in the complaint hearing process, we don't have a writing, am I right, that there is an ethical wall here between Catharine Barnes and Jackie Minor; therefore is it safe for us to assume that it is okay with Louise Renne if Jackie and Cathy prepare documents, prepare a memorandum together, discuss the case, talk about the case, allow each other access to each other's files; is that okay; it seems to me absent an ethical wall or an assurance there is one than that is normal business."

Member Hogan stated what has been described is conduct that could have Ms Minor disbarred. Member Courtney stated this was not true; "Mr. Chin came on behalf of the Planning Commission, handed us something, so we had three documents in front of us; his printed out document was in the same legal that our lawyer had prepared for us."

Member Hogan requested the allegations be backed up.

Chair Bernstein stated the conflict of interest issue required two meetings with City Attorney Renne; finally she took Ms. Minor off HRC, and any other department; according to the interpretation of the ordinance by one of the lawyers who drafted it, sole does not mean exclusive; what it means is that there will not be assignment to another department; however, Ms. Minor is free to do certain other things where there is no other possibility of conflict.

Chair Bernstein stated the discussion was over.

Member Appel stated in the practice of law having some kind of an agreement about expectations of the client/attorney relationship; might be something helpful; might provide some of the assurances.

Public comment from Marie Harrison regarding access to Deputy City Attorney Minor's files; Ms. Minor stated that unless she grants access, no one has access; information then cannot be shared; no sharing of information between attorneys.

Chair Bernstein stated she has worked closely with Ms. Minor; confidence in her; think she is committed to open government; did a bang-up job on training departments, getting down to the root core so that we don't have to have all these complaints; she has done other outstanding work for us; regret that any discussion has been used outside of this Task Force to be personally abusive.

Chair Bernstein wished Judy Appel good luck; thanked her for her contributions to the Task Force.

9. Report of Administrator

Administrator Hall submitted report of communications log.

The meeting adjourned at 6:30 p.m.

Submitted by

Donna L. Hall, Administrator

**Sunshine Ordinance Task Force**



City Hall  
Dr. Carlton B. Goodlett Place, Room 409  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-7854  
TDD/TTY No. 544-5227

<http://www.ci.sf.ca.us/bdspvrs/sunshine.htm>

**SUNSHINE ORDINANCE TASK FORCE**

**REGULAR MEETING**

**AGENDA**

**Tuesday, May 22, 2001  
4:00 p.m., City Hall, Room 408**

**DOCUMENTS DEPT.**

**MAY 18 2001**

**SAN FRANCISCO  
PUBLIC LIBRARY**

**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Vacant                 | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie Harrison         | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hajazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of April 24, 2001 (5 min) Action item

2. Report from Chair (Hilda Bernstein) (5 min) Discussion item
- (a) Marie Harrison
  - (b) Board of Supervisors Rules Committee
  - (c) Coalition for San Francisco Neighborhoods
  - (d) Task Force Committee Attendance
  - (e) Letter from Davis Reno regarding their complaint against the Human Rights Commission

3. Report from Complaint Committee (Daniel Guillory, Chair) (5 min)  
Discussion and possible action items

Report of meeting of May 10, 2001

- (a) Clements & Jamerson complaints HRC of November 16, 2000
- (b) Clements complaint of April 20, 2001
- (c) SEIU complaint of May 2, 2001

4. **Continued to June 26, 2001:** Public hearing, Dawn Clements and Harry Jamerson complaints of November 16, 2000 related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission. Action item
5. **Continued to June 26, 2001:** Public hearing, Dawn Clements complaint of April 20, 2001 related to Deputy City Attorney assigned to the Task Force. Action item
6. Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health. (20 min) Action item
7. Report from Ad Hoc Committee Regarding Conflict of Interest (Bob Planthold, Chair) (5 min) Discussion and possible action
- Report of meeting of May 8, 2001
8. Report from Public Education & Information Committee (Paul Hogan, Chair) (5 min) Discussion item
- Report of meeting of May 9, 2001
9. Report of Administrator (Donna Hall) (5 min) Discussion item
10. Public Comment (20 min)

**ADJOURNMENT**

**Next Regular Meeting June 26, 2001, 4:00 p.m.**

THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

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## **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at [Donna\\_Hall@ci.sf.ca.us](mailto:Donna_Hall@ci.sf.ca.us).

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Sunshine Ordinance Task Force



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≡ **SUNSHINE ORDINANCE TASK FORCE**

**REGULAR MEETING**

≡ **MINUTES**

**Tuesday, May 22, 2001**  
**4:00 p.m., City Hall, Room 408**

DOCUMENTS DEPT.

JUL 03 2001

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**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Vacant                 | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie Harrison         | Seat 11    | Sue Cauthen            |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hijazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Roll Call: Present: Brugmann, Courtney, Bernstein, Kowalczyk, Planthold, Guillory, Hogan, Cauthen, Hare, Hijazi. Absent: Harrison, Ray

1. Approval of Minutes of April 24, 2001

Minutes approved as amended (Last line of paragraph 2 of page 2 deleted.)  
(Guillory/Brugmann) Ayes: Brugmann, Bernstein, Kowalczyk, Planthold,  
Guillory, Hogan, Cauthen. Noes: Courtney. Absent: Harrison, Ray





2. Report from Chair

- (a) Welcomed new member Marie Harrison  
Thanked Sue Cauthen for service to the Task Force
- (b) Attended Board of Supervisors Rules Committee
- (c) Attended Coalition for San Francisco Neighborhoods
- (d) Attended Public Education & Information Committee, Ad Hoc Committee on Conflict of Interest Committee, and Complaint Committee
- (e) Letter from Davis Reno regarding their complaint against the Human Rights Commission

3. Report from Complaint Committee

Chair Daniel Guillory reported on the meeting of May 10, 2001.

- (a) Clements & Jamerson complaints against the HRC of November 16, 2000 and November 30, 2000  
Committee found jurisdiction on these complaints.
- (a) Clements complaint of April 20, 2001  
To be on Complaint Committee agenda for next meeting.
- (b) SEIU complaint of May 2, 2001  
Committee found jurisdiction on this complaint.

Objection raised by Member Courtney regarding the Task Force procedures discussing the report of the Complaint Committee.

Motion adopted accepting Complaint Committee recommendation of jurisdiction on the Clements & Jamerson complaints against the HRC of November 16, 2000 and November 30, 2000, and SEIU complaint of May 2, 2001.  
(Guillory/Planthold) (Absent: Harrison, Ray)

Public comment from Dawn Clements regarding conflicts of her complaints; independent counsel needed; there is not an ethical wall.

Moved by Member Courtney to request response from City Attorney's Office to the Sunshine Ordinance Task Force of May 22, 2001 letter to the Sunshine Ordinance Task Force from Dawn Clements. Deputy City Attorney Minor stated this item was not on agenda; therefore no action may be taken.

The May 22, 2001 letter referred to the Ad Hoc Committee on Conflict of Interest.

4. **Continued to June 26, 2001:** Public hearing, Dawn Clements and Harry Jamerson complaints of November 16, 2000 related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission



5. **Continued to June 26, 2001:** Public hearing, Dawn Clements complaint of April 20, 2001 related to Deputy City Attorney assigned to the Task Force

Member Bruce Brugmann left the meeting at this time.

6. Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health

Linda Zaretsky, Local 790 and The Committee to Save Our Services addressed the Task Force regarding Bayview Hunters Point Foundation non-compliance; board remains closed; non-compliance with having two open meetings per year; no opportunity to address membership on the Board or propose candidates for membership; no knowledge of April meeting; no election took place; no consumer position; no applications mailed when requested; vacancies not posted in normal places; foundation has no presence in the community; mental health programs in the bayview area are deteriorating.

Karen Patterson-Matthews, Executive Director, Bayview Hunters Point Foundation, addressed the Task Force; would like to know how Department of Public Health is represented and if the Department will speak to this issue; would like to hear about Committee to Save Our Services that has lodged the complaint.

Deputy City Attorney Minor stated the initial complaint that came in was lodged against the Department of Public Health; the Department of Public Health provided a response; the response was drafted by the Foundation in April 2001; is this complaint against the Department of Public Health or is it a complaint against a non-profit foundation.

Member Guillory stated it was against a non-profit foundation.

Deputy City Attorney Minor stated the Task Force was notified initially because it appeared the Department of Public Health had not responded to a complaint that it had received; if the Task Force is now satisfied that the Department of Public Health responded to the complaint, then the record should reflect that and we can proceed in your advisory role under Chapter 12L in hearing the complaint against the non-profit; the Task Force role under Chapter 12L, unlike your role under the Sunshine Ordinance, is to issue an advisory opinion after the department has issued a decision. We are proceeding with this as a complaint against a non-profit, not a complaint against the Department of Public Health.



Barbara Garcia, Department of Public Health, addressed the Task Force, stating they have worked with Bayview Hunters Point Foundation and Local 790; have placed Bayview in technical assistance; have been concerned with compliance with requirements of by-laws; we believe Bayview should expand their Board; at any given time boards will be out of compliance with their members because they are volunteers; 790 concern is valid with regard to representation; timeframe is we will be going before the Health Commission in the next couple of months; Bayview will need to have a plan set; this is a long-term process; we have a timeframe for the objectives; majority of dollars for funding come from the Department of Public Health; Bayview is not in compliance with the Sunshine Ordinance as of now.

Karen Patterson-Matthews, Bayview Hunters Point Foundation, stated they are in compliance with the Sunshine Ordinance; if Department feels there is a particular area of non-compliance, we need to know that; Barbara Garcia stated the issue of by-law compliance of 790 bringing forth the composition of the Board.

Karen Patterson-Matthews stated the Bayview Hunters Point Foundation responded to the complaint that came to from the Department of Public Health; two vacancies on the Board and they have been announced in two formal announcements; the Foundation has held its designated public meetings; held the two meetings in the 2000 contract year and will do so in 2001; public testimony provided for in Board meetings; meetings are open meetings; was a meeting in April; all information is current and up-to-date; have met all requirements; announcement of vacancies outline the expertise we need; Foundation is currently involved in a strategic planning process; one area is Board development and representation and consumer involvement; in public meetings has been stated the Foundation is not opposed to consumer representation.

Karen Patterson-Matthews stated regarding the Foundation being out of compliance relative to the Board and by-laws, the Sunshine Ordinance does not stipulate the size of the Board; Foundation is non-profit and Board members set guidelines; notice of Board meetings are announced at the programs; public meetings are announced to Clerk of Board of Supervisors, all the programs, Department of Public Health, community library and SF public library; notice of vacancies has not been sent to all of those places; since these discussion we will make sure the vacancies follow this same schedule; Board members were elected in April.

Faye Rowe, Local 790, complaints of notice of meeting, posting of vacancies, Board composition, refusal to give applications to consumers, are founded in fact.



Linda Zaretsky, Local 790; no election in April; no one was contacted.

Request Karen Patterson-Matthews return with answers to the questions the Task Force has.

Female speaker asked if a notice of meeting is requested, if it will be provided. Karen Patterson-Matthews stated yes.

Barbara Garcia stated non-compliance is with regard to makeup of the Board; guidelines have been outlined as part of the technical assistance; the process has not yet been completed; Sunshine Ordinance is part of the contract.

Hala Hijazi left the meeting at this time.

Member concerns regarding April meeting, vacancies, consumer representation, membership notification, election of April; outreach; tangible data; requested proof of documents.

Public comment from Roy Harrison regarding consumer representation on Board, not well treated; do not receive proper notices.

Public comment from female speaker regarding technical assistance provided to Foundation; where is the technical assistance. Barbara Garcia stated regarding the organization that was provided a contract, we are deciding what the next stage is; first stage was looking at the Foundation; they reported back to the Commission; met its obligation to the Commission.

Public comment female speaker regarding technical assistance; met with person and they were to get back to us; have not heard from them.

Public comment from female speaker, Bayview Hunters Point Mental Health, stating the Foundation is in compliance; complainants have appeared before number of groups.

Public comment from Donna Wolf stating a fresh new Board would make members accountable.

Public Comment from Karen Patterson-Matthews stating nothing was done improper; notices were given; commended Board members; we will provide what is requested.

Public comment from Carla Thurston regarding consumer membership; never received a response from Board.





Motion adopted continuing this hearing to June 19, 2001 Task Force meeting and ask respondents to complaint bring documents to assertions; Department provide tangible evidence of oversight, guidelines developed, and a timeline; copy of by-laws, meeting minutes of April meeting. (PlantholdCauthen) (Absent: Bruggmann, Harrison, Ray)

Deputy City Attorney Minor stated the contracting department has primary responsibility for Chapter 12L; 12L authorizes the Sunshine Ordinance Task Force to issue an advisory opinion; the complainant has only ten days to appeal to the Board of Supervisors after the Department has taken action or the Task Force has issued its advisory opinion; under this ordinance even the action of the Board of Supervisors is considered non-binding; the complainant during this period could elect to go the Board of Supervisors.

10. Public Comment

No public comment.

7. Report from Ad Hoc Committee Regarding Conflict of Interest

Member Vince Courtney reported on productivity of meeting.

8. Report from Public Education & Information Committee

Chair Paul Hogan reported on meeting of May 9

- Outreach letter finalized
- Webpage to be updated
- Meeting with Mayor's Office of Neighborhood Services
- Meeting with San Francisco Coalition of Neighborhoods
- Meetings to be held with groups not covered by Sunshine Ordinance

9. Report of Administrator

Administrator Donna Hall submitted written report.

- Complaint log
- Communications log
- Memo from Lillian Hare regarding advertising costs
- By-laws section
- Commendation letter to Fire Department on retrieval of records

The meeting adjourned at 6:30 p.m.

Donna L. Hall, Administrator



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Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 409  
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**SUNSHINE ORDINANCE TASK FORCE**

**REGULAR MEETING\***

DOCUMENTS DEPT.

**AGENDA**

JUN 25 2001

**Tuesday, June 26, 2001  
4:00 p.m., City Hall, Room 408**

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**Task Force Members**

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Vacant                 | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
| Seat 3 | Vince Courtney         | Seat 10    | Paul Hogan, Vice Chair |
| Seat 4 | Marie Harrison         | Seat 11    | Marjorie Williams      |
| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hijazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of May 22, 2001 (5 min) Action item

\*Legal advice to the Task Force for the meeting of June 26, 2001 is being provided by Carol Woodward, Deputy County Counsel, San Mateo County.

2. Report from Chair (Hilda Bernstein) (5 min) Discussion item
  - (a) Marjorie Ann Williams, new member to the Task Force
  - (b) Prospective new member Joshua Koltun
  - (c) Representation by San Mateo County Counsel's Office
  - (d) Outreach meetings
  - (e) Task Force Committee attendance
3. Election of Officers (5 min) Action item
  - (a) Election of Chair
  - (b) Election of Vice Chair
4. Proposed Charter Amendment regarding Elections Commission (10 min) Action item
5. Report from Public Education & Information Committee (Paul Hogan, Chair) (5 min) Discussion item  
  
Report of meeting of June 19, 2001
6. Report and recommendations from Complaint Committee (Daniel Guillory, Chair) (15 min) Action items  
  
Report of meeting of June 19, 2001
  - (a) Specificity of agenda items and notification of delays of hearings and information to Task Force members.
  - (b) Dawn Clements' letter of April 19, 2001  
  
Letter of April 19, 2001 addressed to the Sunshine Ordinance Task Force from Dawn Clements regarding alleged violation of the Sunshine Ordinance by Deputy City Attorney. (Complaint Committee voted 2-1 that there is no jurisdiction.)
7. Public hearing, Dawn Clements' letter of April 19, 2001 related to Deputy City Attorney assigned to the Task Force. (20 min) Action item. (Hearing in this matter will not proceed if the Task Force approves the recommendation of the Complaint Committee.)

- 26/
8. Report and recommendation from Ad Hoc Committee Regarding Conflict of Interest (Bob Planthold, Chair) (10 min) Action item

Report of meetings of May 8 and June 19, 2001

Letter of May 22, 2001 addressed to the Sunshine Ordinance Task Force from Dawn Clements regarding possible conflict of interest involving the City Attorney Office's advice to the Task Force related to Dawn Clements' complaint of November 16, 2000. (Ad Hoc Committee voted 2-0 that there is no jurisdiction.)

9. Public hearing, Dawn Clements' letter of May 22, 2001 related to Deputy City Attorney assigned to advise the Task Force on the Dawn Clements' complaint of November 16, 2000. (Hearing on this matter will not proceed if the Task Force approves the recommendation of the Ad Hoc Committee.) (20 min) Action item
10. Public hearing, Dawn Clements and Harry Jamerson complaints of November 16, 2000 and November 30, 2000, related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission. (15 min) Action item
11. Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health. Request of Bayview Hunters Point Foundation to continue this hearing to July 24, 2001. (5 min) Action item
12. Report of Administrator (Donna Hall) (5 min) Discussion item
13. Public Comment (20 min)

**ADJOURNMENT**

**Next Regular Meeting July 24, 2001, 4:00 p.m.**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244**

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26/01  
**SUNSHINE ORDINANCE TASK FORCE**

**REGULAR MEETING**

DOCUMENTS DEPT.

**MINUTES**

JUL 27 2001

**Tuesday, June 26, 2001  
4:00 p.m., City Hall, Room 408**

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**Task Force Members**

07-27-01P01:10:00

|        |                        |            |                        |
|--------|------------------------|------------|------------------------|
| Seat 1 | Vacant                 | Seat 8     | Robert Planthold       |
| Seat 2 | Bruce Brugmann         | Seat 9     | Daniel Guillory        |
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| Seat 5 | Tuesday Ray            | Ex-officio | Lillian Hare           |
| Seat 6 | Hilda Bernstein, Chair | Ex-officio | Hala Hijazi            |
| Seat 7 | Ted Kowalczyk          |            |                        |

**Roll Call**

Present: Brugmann, Harrison, Ray, Bernstein, Kowalczyk, Planthold, Guillory, Hogan, Williams

Absent: Courtney

**Agenda Changes**

Item No. 11, Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health. Request of Bayview Hunters Point Foundation to continue this hearing to July 24, 2001, moved to after Item No. 3.

Chair Bernstein welcomed new members Marjorie Ann Williams and Marie Harrison.

Chair Bernstein introduced Carol Woodward, legal counsel from San Mateo County Counsel's Office, to advise the Task Force on conflict of interest issues.

**1. Approval of Minutes of May 22, 2001.**

Minutes approved. (Guillory/Harrison) (Courtney absent)

**2. Report from Chair**

Chair Bernstein reported on the following items:

- (a) Marjorie Ann Williams, new member to the Task Force
- (b) Prospective new member Joshua Koltun
- (c) Representation by San Mateo County Counsel's Office
- (d) Outreach meeting attendance with League of Women Voters
- (e) Task Force Committee attendance

3. Election of Officers

- (a) Election of Chair

Hilda Bernstein nominated for Chair (Planthold). No further nominations. Member Brugmann asked Chair Bernstein about questions to the media to be submitted to her in writing and she has two days to respond.

Public comment from Richard Knee stating he echoed Member Brugmann's question.

Public comment from Dawn Clements regarding June 26, 2001 letter she submitted today to the Task Force regarding complaint of November 16, 2000 and letter of April 19, 2001 addressed to the Task Force regarding her unhappiness with how the Chair handled these two items.

Member Bernstein elected Chair. (Ayes: Harrison, Ray, Bernstein, Kowalczuk, Planthold, Guillory, Hogan, Williams) (Noes: Brugmann) (Absent: Courtney)

- (b) Election of Vice Chair

Member Planthold nominated for Vice Chair (Kowalczuk). No further nominations.

Member Planthold elected Vice Chair. (Ayes: Brugmann, Harrison, Ray, Bernstein, Kowalczuk, Planthold, Guillory, Hogan, Williams) (Absent: Courtney)

11. Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health. Request of Bayview Hunters Point Foundation to continue this hearing to July 24, 2001.

Linda Zaretsky on behalf of SEIU Local 790 and the Committee to Save Our Services, addressed the Task Force stating opposition to the Sunshine Ordinance Task Force granting the request of the Bayview Hunters Point Foundation to continue the scheduled agenda item addressing non-compliance with the Sunshine Ordinance until July 24, 2001; reservations regarding a continuance of this issue which will allow the Foundation to create the



appearance of compliance without substantive change. Linda Zaretsky submitted letter dated June 22, 2001.

Member Planthold stated concern that Bayview Hunters Point Foundation is having tonight one of their two public meetings and did not notify the Task Force of their intent. Member Harrison stated Bayview Hunters Point Foundation has been unresponsive to her requests for information; look at motives of canceling themselves out of this meeting. Member Williams stated concern also.

Chair Bernstein stated she continued this hearing until July; have continued hearings before; felt it important that everyone has fair chance to deal with the issues; letter was received from Bayview Hunters Point Foundation requesting continuance of the hearing. Both Health Department and Bayview Hunters Point Foundation will be at the next meeting with evidence of adequate oversight and guidance from the Health Department, and compliance from Bayview Hunters Point Foundation.

#### 4. Proposed Charter Amendment regarding Elections Commission

Deputy City Attorney Jackie Minor stated there are three different proposed charter amendments related to changes in the Elections Department; propose in some fashion an Elections Commission; Supervisor Gonzalez' proposed charter amendment requests the Task Force to designate one of the seven members; if there are comments from the Task Force, they are to be forwarded to the Board of Supervisors.

Gloria Young, Clerk of the Board, stated it is part of the Board Rules to forward to departments, for comments, any charter amendments that may be affected by the legislation.

#### Comments from Task Force Members:

Question of terms: Sunshine terms are two years; proposal for Election Commission terms is five years; appointee might function without oversight if they served five years and the Sunshine Task Force were two years and Task Force was not around for the full term of the appointee. Comment that the appointment should be someone from outside the Task Force.

Noted that the proposed amendment states no member of the Elections Commission may hold any other public office or any employment with the City. This would preclude a Task Force Member from being a member of the Elections Commission. Would like some clarification on this point.

Comment that if it is not sure it is appropriate to appoint someone to deal with an issue that is outside the scope of authority of the appointing body.

Comment that two of the seven appointing officers come from criminal justice system; uncomfortable with concept in general. Comptroller was in another version, and an appointment from that body might be appropriate.

Comment that five-year term is an exceptionally long term.

Comment that if a person were appointed by the Task Force; the Task Force could remove the appointee.

Public comment from Doug Comstock stating he feels it is a good idea to have the Sunshine Ordinance Task Force appoint a member to the Elections Commission.

5. Report from Public Education & Information Committee

Chair Hogan reported on the Committee meeting of June 19, 2001

- Outreach meeting with League of Women Voters held
- Neighborhood letter and materials distributed
- Request of Rules Committee to review the wisdom of a community consultant to the Public Education & Information Committee; could use assistance; had in mind to invite Sue Cauthen to be the initial consultant
- Committee Chair Hogan thanked Sue Cauthen for the work she had completed for the Public Education & Information Committee.
- Additional contact to be made with college students and media

Member Planthold suggested Chair Bernstein appoint someone, before the next Rules Committee meeting, to fill the position of Tuesday Ray on the Rules Committee, who has resigned. Chair Bernstein asked Marjorie Ann Williams if she would sit on Rules Committee on an interim basis. Member Williams stated yes.

13. Public Comment

L. Harris asked about listing of neighborhood organizations.

Sue Cauthen spoke regarding non-profits and non-compliance.

Scott Trammell Moore spoke regarding complaint he filed today regarding seriatim meetings. Member Ray stated it is not appropriate for the Task Force to discuss the complaint at this time. Member Brugmann stated he had no idea what the complaint was about; prepared to go through the procedures.

Harry Jamerson spoke regarding his complaint against the Human Rights Commission. Member Harrison stated the complaint is not going to be swept under the rug. Member Williams stated the Task Force does not intend to let things go on a long time.

6. Report and recommendations from Complaint Committee

Chair Guillory reported on the Committee meeting of June 19, 2001.

- (a) Specificity of agenda items and notification of delays of hearings and information to Task Force members.

Serve as model for clear, understandable agenda items; distributing information to Task Force members in timely manner.

- (b) Dawn Clements' letter of April 19, 2001

Letter of April 19, 2001 addressed to the Sunshine Ordinance Task Force from Dawn Clements regarding alleged violation of the Sunshine Ordinance by Deputy City Attorney. (Complaint Committee voted 2-1 that there is no jurisdiction.)

Member Hogan spoke regarding rationale of favorable vote for recommendation of no jurisdiction from the Complaint Committee.

Member Brugmann spoke regarding rational of unfavorable vote for recommendation of no jurisdiction from the Complaint Committee.

Legal Counsel Carol Woodward stated it was her understanding of the April 19 letter from Ms. Clements is that Ms. Clements has taken a position that there is a violation of the State Bar Code of Ethics, which this Task Force has no jurisdiction to determine; if the Task Force wishes to declare there is a conflict, then there would have to be an ethical wall maintained; as "I understand it, the Task Force has not declared that such a conflict exists." Ms. Clements believes that a conflict exists; however that is not the same as the conflict existing.

Legal Counsel Woodward stated if the Task Force wishes to address whether there is a conflict of interest after which there should be an ethical wall maintained, then the Task Force has jurisdiction; if they wish to discuss the State Bar Code of Ethics and the question of whether there has been a violation, there is no jurisdiction here.

Member Harrison asked about legal counsel representation; legal counsel stated it was her understanding of the April 19 letter that Ms. Clements was complaining that Ms. Minor had a conflict of interest and by having one violated the State Bar Code of Ethics. Mr. Willis, counsel for Ms. Clements, stated the complaint is that there is a violation of Section 67.30 (a) of the Sunshine Ordinance.

James Quadra, counsel for Ms. Minor, stated objection to procedure that is being followed.

Member Harrison stated she did not have enough information to make a decision if the Task Force has jurisdiction.

Member Planthold stated he felt we did not have the evidence before us to say we should hear at any meeting that there was a conflict.

Member Harrison stated if we err, we err on the side of the public.

Chair Bernstein reiterated we are dealing with the issue of conflict of interest.

Public comment from L. Harris relating to report from Member Hogan.

Public comment from Sue Cauthen relating to role of Member Brugmann on the Task Force and the integrity of Counsel Minor.

Public comment from Raymond Willis relating to issue of jurisdiction of complaint.

Public comment from Jim Quadra relating to allegations of complaint; this is adverse employment action against a public employee; Task Force does not have authority to take adverse employment action.

Public comment from Scott Trammell Moore relating to seriatim issues.

Public comment from Doug Comstock relating to appearance of impropriety.

Public comment from Dawn Clements relating to Section 67.30 (a) determination.

Counsel Woodward stated determining a conflict in a particular attorney does not seem to be within the purview of the Task Force; believe the Task Force does have jurisdiction at some point to say they feel there is a conflict with the City Attorney representing the Human Rights Commission as well as the Task Force when there is a complaint against the Human Rights Commission; that has not happened; therefore there is no duty for Ms. Minor or the City Attorney to erect an ethical wall.

Chair Bernstein asked if the Task Force had jurisdiction in this matter. Counsel Woodward stated no.

Member Ray stated Ms. Minor is only the counsel for the Task Force; this issue is moot.

Member Planthold recommended the Task Force accept the recommendation of the Complaint Committee that there is no jurisdiction.

Moved by Member Brugmann, seconded by Member Guillory, to reject the committee report of no jurisdiction and conduct a hearing. (Ayes: Brugmann, Harrison, Williams) (Noes: Ray, Bernstein, Kowalczyk, Planthold, Guillory, Hogan) (Absent: Courtney). The motion failed.

Motion adopted accepting the recommendation of the Complaint Committee of no jurisdiction. (Guillory/Planthold) (Ayes: Harrison, Ray, Bernstein, Kowalczyk, Planthold, Guillory, Hogan) (Noes: Brugmann, Williams) (Absent: Courtney)

Member Harrison asked about the conflict of interest issue; Member Guillory stated the Ad Hoc Committee on Conflict of Interest is dealing with is the larger issue; that committee has nothing to do with dealing with this issue.

Hala Hijazi left the meeting at this time.

7. Public hearing, Dawn Clements' letter of April 19, 2001 related to Deputy City Attorney assigned to the Task Force

Hearing in this matter did not proceed as the Task Force accepted the recommendation of the Complaint Committee of no jurisdiction.

8. Report and recommendation from Ad Hoc Committee Regarding Conflict of Interest

Chair Planthold reported on meeting of May 8 and June 19, 2001.

Letter of May 22, 2001 addressed to the Sunshine Ordinance Task Force from Dawn Clements regarding possible conflict of interest involving the City Attorney Office's advice to the Task Force related to Dawn Clements' complaint of November 16, 2000 and letter of April 19, 2001. (Ad Hoc Committee voted 2-0 that there is no jurisdiction over request in Dawn Clements' letter of May 22, 2001.)

Task Force Chair requested of the Ad Hoc Committee to clarify what the Task Force needs to do in these matters and write for us what our expectations are and then get from the City Attorney agreement, etc.

Member Guillory stated what was decided at the Committee meeting was that we had already dealt with the issue because Counsel Woodward is here today and we have a letter from the City Attorney that talked about the fact that Counsel Woodward would sit for the Clements' matters.

Member Harrison stated she felt this would occur again; if someone appears before us and perceives a conflict of interest, that we would replace our City Attorney. Member Planthold stated we were going to prepare some guidelines to prevent this in the future.

Public comment from Dawn Clements stating it is not a matter of jurisdiction, was also a moot point because other Counsel is here.

Public comment from James Quadra stating the Task Force did not have jurisdiction; outside Counsel has been appointed.

Public comment from Raymond Willis stating determination under the Sunshine Ordinance is independent and has no connection with adverse employment.

Motion adopted accepting Committee recommendation of no jurisdiction.  
(Ayes: Ray, Bernstein, Kowalczuk, Planthold, Guillory, Hogan) (Noes: Bruggmann, Harrison, Williams) (Absent: Courtney)

Task Force Chair Bernstein left the meeting at this time. Meeting chaired at this time by Vice Chair Planthold.

9. Public hearing, Dawn Clements' letter of May 22, 2001 related to Deputy City Attorney assigned to advise the Task Force on the Dawn Clements' complaint of November 16, 2000 and letter of April 19, 2001

Hearing on this matter did not proceed as the Task Force accepted the recommendation of the Complaint Committee of no jurisdiction.

10. Public hearing, Dawn Clements and Harry Jamerson complaints of November 16, 2000 and November 30, 2000, relating to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission

Dawn Clements addressed the Task Force requesting the Task Force refer to the document she distributed this evening titled "Outline to Presentation" addressing Ms. Barnes memorandum dated May 8, 2001, stating it did not provide a specific legislative history and had inconsistencies.

Harry Jamerson addressed the Task Force expressing concern of Chairperson Saliba-Malouf and appointment process and not for minority business; concerned with his dismissal from the board.

Member Harrison asked if his replacement was for convenience. Mr. Jamerson stated yes.

Member Brugmann asked if Mr. Jamerson was called before the Grand Jury or interviewed by the Grand Jury on any of this. Mr. Jamerson stated no. Member Brugmann asked if Mr. Jamerson felt he was penalized for his position. Mr. Jamerson stated yes.

Catharine Barnes, representing the Human Rights Commission, addressed the Task Force outlined the proposed findings for the Clements and Jamerson complaints; Ms. Saliba-Malouf's appointment of new committee members did not violate the Brown Act or Sunshine Ordinance.

Member Harrison had questions of 12 D and 12 A and questions of appointment of Chair at the time Ms. Clements and Mr. Jamerson were appointed; concerned with the appointment process. Catharine Barnes stated 12 A is dormant and has been since the early 60's; 12 D is active and continues to meet monthly; Ms. Clements and Mr. Jamerson continued on the with their appointments after their expired terms until their replacements were appointed, which is customary.

Harry Jamerson reiterated his concern of the appointment process; minutes were not kept.



Dawn Clements referred to minutes of April 18, 1995 stating selection was in a public forum; is to be an open meeting; process changed in 1996 and no longer was it a part of a public meeting process; 12 A is a legitimate cross with 12 D.

Member Williams stated there is a disparity in the African-American race; need to look into this; need to look at this agency and area; Mr. Jamerson well respected throughout the City.

Member Harrison expressed concern with Exhibit D, meeting notes of April 18, 1995—why reference to a task force to review the applications and then pass on to the chairperson; why was this done; disturbed about this; missing information.

Member Planthold stated that while in 1995 the process was one way, a declaration submitted makes it seem possible that there was a rule process change between 1995 and 2000.

Counsel Woodward stated originally the Commission as a whole was to appoint the Commission; at some point there was a change; at that point the chair was to appoint the members; June 2000 change was only a change in the order of the language; not a change in June 2000 as to how to appoint; still the chair to appoint.

Member Harrison requested a decision not be made until the next meeting.

Vice-Chair Planthold requested the Task Force members send questions to the Administrator to compile for the Chair for the next meeting. Member Hogan stated he felt it was straying near a seriatim meeting.

Member Brugmann suggested the question be put in open forum tonight

Member Harrison stated her concern: two different time spans, one giving the chairperson full autonomy to do what they chooses to select persons; another document three years later that shows there was an actual task force put in place with a three member panel; there is another document somewhere that states why this task force was put together for that particular item; somewhere along the line the rules changed after 1992; find those documents for me.

Member Brugmann referred to memo of December 13, 2000 whereby the Deputy City Attorney stated there were three types of advisory committees to advise the HRC; at the advice of the Chair I moved that we put the question to the Attorney General; unanimously approved by the Task Force; at the suggestion of the City Attorney I suggested it be sent to the Board of Supervisors to send to the Attorney General; was returned; was not sent to the Attorney General properly; we have never got the answers that the Deputy City Attorney asked. What are our options to get an outside opinion as to which of those committees is the



proper committee—should it go the District Attorney, to the Attorney General, an outside attorney—who should we get to make that determination.

Member Hogan stated his question had more to do with this task force that was called or set up by the chair to make recommendations—those recommendations could or might not be followed by the chair—were Mr. Jamerson and Ms. Clements appointed to this body via a task force, was their application considered by a task force and then subsequently changed after that; my second question is if those procedures were changed, did the chair have the authority to do that or did the commission have the authority to do that—while we may not like the fact that the procedure was changed, that is not in our purview to comment upon; and as much as we may feel for these two complainants as to the way they were treated, does that rise to the level of a sunshine complaint, is there a specific section of the sunshine ordinance that has been violated?

Member Guillory requested Counsel to summarize what she considers to be the specific sunshine ordinance violation.

Member Kowalczyk asked what was the name of the first person that was appointed by a singular person as appointed by a full committee—do you have a name of that person?

## 12. Report of Administrator

Administrator Donna Hall submitted monthly report.

Adjournment: 7:40 p.m.

Submitted by Donna L. Hall, Administrator



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24/01  
**Sunshine Ordinance Task Force**



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**SUNSHINE ORDINANCE TASK FORCE**

**AGENDA**

**Tuesday, July 24, 2001**

**4:00 p.m.**

**City Hall, Room 408**

07-20-01 12:01 PM  
**DOCUMENTS DEPT.**

**JUL 20 2001**

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**Task Force Members**

Seat 1 Joshua Koltun  
Seat 2 Bruce Brugmann  
Seat 3 Vince Courtney  
Seat 4 Marie Harrison  
Seat 5 Vacant  
Seat 6 Hilda Bernstein  
Seat 7 Ted Kowalczyk

Seat 8 Robert Planthold  
Seat 9 Daniel Guillory  
Seat 10 Paul Hogan  
Seat 11 Marjorie Ann Williams  
Ex-officio Lillian Hare  
Ex-officio Hala Hijazi

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of June 26, 2001. (5 min) Action item
2. Complaints of Dawn Clements and Harry Jamerson of November 16, 2000 and November 30, 2000, related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission. (20 min) Action item

3. Report from Chair (Hilda Bernstein) (5 min) Discussion item
  - (a) Outreach presentations
  - (b) Code of Conduct
  - (c) Complaint filed by Scott Trammell Moore against Task Force Member. Discussion item.
4. Report from Public Education & Information Committee (Paul Hogan) (5 min) Discussion item  
  
Report of Committee meeting of July 19, 2001.
5. Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health. (15 min) Action item
6. Report from Administrator (Donna Hall) (5 min) Discussion item
7. Public Comment.

**Adjournment**

**Next Regular Meeting August 28, 2001**

(24)  
**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244**

### **Disability Access**

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### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at [Donna\\_Hall@ci.sf.ca.us](mailto:Donna_Hall@ci.sf.ca.us).

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DOCUMENTS DEPT.

**SUNSHINE ORDINANCE TASK FORCE**

AUG 31 2001

**MINUTES**

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**Tuesday, July 24, 2001  
4:00 p.m., City Hall, Room 408**

**Task Force Members**

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan            |
| Seat 4 | Marie Harrison  | Seat 11    | Marjorie Ann Williams |
| Seat 5 | Vacant          | Ex-officio | Lillian Hare          |
| Seat 6 | Hilda Bernstein | Ex-officio | Hala Hijazi           |
| Seat 7 | Ted Kowalczyk   |            |                       |

Roll Call: All present except: Harrison, Hare absent

Chair Bernstein introduced Carol Woodward, Counsel for the Clements and Jamerson items; Ernest Llorente, Counsel from the City Attorney's Office for the Task Force; new Member Joshua Koltun.

1. Approval of Minutes of June 26, 2001.

Minutes approved. (Planthold/Guillory) (Hogan, Harrison absent)

Member Hogan entered meeting at this time.

2. Complaints of Dawn Clements and Harry Jamerson of November 16, 2000 and November 30, 2000, related to appointments to the Minority/Women Business Advisory Committee of the San Francisco Human Rights Commission. (20 min) Action item

Motion introduced that the Chair of the Human Rights Commission acted properly, citation of the relevant section of the bylaws when they filed to appoint Mr. Jamerson. (Courtney/ Hogan) Motion withdrawn





Motion introduced that the Chair of the Human Rights Commission did violate the Sunshine Ordinance by failing to give proper notice and subsequently held an improper meeting, and the subject matter of the meeting was the committee seat of Mr. Jamerson, given the evidence provided. (Courtney/Brugmann)

Ayes: Brugmann, Courtney, Williams

Noes: Koltun, Bernstein, Kowalczyk, Planthold, Guillory, Hogan

Absent: Harrison

The motion failed.

Motion introduced that the Task Force finds, given the evidence, that the Chair of the Human Rights Commission did, in fact, violate the Sunshine Ordinance by failing to give proper notice and subsequently holding an illegal meeting, subject matter of that meeting being the seat of Dawn Clements. (Courtney/Brugmann)

Ayes: Williams, Brugmann

Noes: Koltun, Bernstein, Kowalczyk, Planthold, Guillory, Hogan

Absent: Harrison

The motion failed.

Order of Determination:

Finding that the Chair of the Human Rights Commission had the power unilaterally to appoint or reappoint members of the MBE/WBE/LBE Advisory Committee based on the evidence before the Sunshine Ordinance Task Force. (Koltun/Hogan)

Ayes: Koltun, Courtney, Bernstein, Kowalczyk, Planthold, Guillory, Hogan

Noes: Brugmann, Williams

Absent: Harrison

### 3. Report from Chair

(a) Outreach presentations

(b) Code of Conduct

(c) Complaint filed by Scott Trammell Moore against Task Force Member.

Deputy City Attorney Llorente gave an overview of the complaint and the response of the City Attorney's Office, stating it was his opinion the Task Force could not take any action on the complaint because it would expose this Task Force and members to possible liability; his suggestion this be referred to the Ethics Commission.

Member Koltun asked about recuse issues; Deputy City Attorney Llorente stated this was because of members participation in the original communication.



Chair Bernstein stated because of a lack of a quorum to act on this complaint, she is referring this complaint to the Ethics Commission.

Bruce Brugmann addressed the Task Force as a member of the public stating he does not conduct secret meetings; urge consideration of serious issues of non-compliance with the Sunshine Ordinance.

Dawn Clements addressed the Task Force stating her concern of inappropriateness of proceedings around her complaint.

Vince Courtney addressed the Task Force as a member of the public stating his email was an acknowledgement that it was his opinion that it was Paul Hogan that was providing information to the complainant; suggested it is Paul Hogan who is the complainant; requested complaint be recalled.

Marjorie Ann Williams addressed the Task Force as a member of the public stating she knew nothing of this and hoped this complaint is dismissed.

5. Public hearing, SEIU Local 790 & the Committee to Save Our Services, against the Department of Public Health

Deputy City Attorney Llorente, stated Maria Martinez of Department of Public Health, is one of the presentors, and he has not talked with Maria about this item.

Linda Zaretsky, SEIU, addressed the Task Force, reiterated their concerns of Bayview Hunters Point Foundation; do not see efforts being made; no good faith effort to get consumers on the board; no evidence of vacancies being circulated; not good notice of meetings; consumers that applied have not had the courtesy of a response.

Dr. Wayzel Fuller, President of the Board of Directors, Bayview Hunters Point Foundation, addressed the Task Force stating they had been publicly seeking new board members, especially a consumer; vacancies have been announced; information has been disseminated at public and community functions; have responded to all individuals who requested packets.

Chair Bernstein expressed concern regarding the application of Bayview Hunters Point Foundation

Member Courtney asked about by-laws. Dr. Fuller stated the by-laws have been sent to the Sunshine Ordinance and have been in force for a long time.



Member Planthold asked about vacancies and leaves of absence and on-leave status and tracking of Board members and attendance requirements. Dr. Fuller stated a leave was granted—not a part of the by-laws.

Member Kowalczyk asked about leave of absence. Dr. Fuller said the absence has been over six months.

Member Hogan left the meeting at this time.

Maria Martinez, Department of Public Health, addressed the Task Force, stating the questions of the Chair were addressed in the memo they have provided.

Member Courtney left the meeting at this time.

Chair Bernstein asked if the Foundation had been placed on notice with a time line that if they are not in compliance it will result in certain actions on the part of the Department of Health. Maria Martinez stated for this year the compliance is to be by December 31; at that time we will work on this on a case-by-case basis.

Member Brugmann asked how many counts the Foundation is out of compliance. Maria Martinez stated on one count, the consumer representation.

Female Speaker, SEIU representative, stated compliance is happening in a cosmetic way; there is a problem with the quality of services of Bayview Hunters Point Foundation.

Public comment by Nora Roman, volunteer coordinator, Emergency Coalition to Save Public Health, expressed concern about problems and not providing adequate service of Bayview Hunters Point Foundation.

Public comment by Louella Harris regarding posting of notices in public places.

Public comment by Male Speaker regarding work of compliance officers; compliance of contracts and services of contracts of aids services.

Damone Hale, employee of the Bayview Hunters Point Foundation, stated he is confident in the Foundation.

Dr. Fuller stated she does care about Board; there is representation over San Francisco on the Board; this issue today is if we are in compliance, not the services of the Department.

Chair Bernstein asked about positions appointed from the Board; Maria Martinez stated they do have something about community advisory boards.



Order of Determination:

Finding that based on the memo from the Public Health Department and the testimony, the Sunshine Ordinance Task Force finds that the Bayview Hunters Point Foundation is not now in compliance with Section 12L and urge the Department of Public Health to take effective action to bring them into compliance. (Planthold/Guillory)

Ayes: Koltun, Brugmann, Bernstein, Kowalczuk, Planthold, Guillory, Williams

Noes: None

Absent: Courtney, Harrison, Hogan

Member Guillory encouraged all parties to check in with us to talk about the progress that has been made on this process.

7. Public Comment

No public comment.

4. Report from Public Education & Information Committee

This item deleted from the agenda.

6. Report from Administrator

The report of the Administrator was submitted by Donna Hall, Administrator.

Adjournment: Meeting adjourned at 6:30 p.m.

Donna L. Hall, Administrator

The 7/24/01 Sunshine Ordinance Task Force meeting has been recorded and is on file in the Sunshine Ordinance Task Force Office.





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Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
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<http://www.ci.sf.ca.us/bdsvpr/sunshine.htm>

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SUNSHINE ORDINANCE TASK FORCE

AGENDA

Tuesday, August 28, 2001

4:00 p.m.

City Hall, Room 408

AUG 27 2001

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Task Force Members

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
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Roll Call

Agenda Changes

1. Approval of Minutes of July 24, 2001. (5 min) Action item
2. Report from Chair. (Hilda Bernstein) (15 min) Discussion and possible action item
  - (a) Request of Member Joshua Koltun for discussion on general question of how it may be appropriate for members of a policy body to communicate with each other prior to the date of a public session about items on the agenda. See attached memo from Joshua Koltun.

- (b) Complaint filed by Scott Trammell Moore.
  - (c) Letter to Mayor regarding lack of sole source contract responses.
  - (d) Standing Committee reconfiguration. See attached listing.
  - (e) Task Force training.
  - (f) Deputy City Attorney assignment to Task Force.
3. Administrator's Report (Donna Hall) (5 min) Discussion item
  4. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code. (Postponed to September Task Force meeting at request of complainant.)
  5. Discussion of San Francisco Conflict of Interest Code; resolution approving a Conflict of Interest Code for the Sunshine Ordinance Task Force. (City Attorney Ethics Team) (30 min) Action item
  6. Report from the City Administrator on progress of index of records. (Jill Lerner) (10 min) Discussion item
  7. Report from Public Education & Information Committee (Paul Hogan) (5 min) Discussion item
  8. Report from Rules Committee (Bob Planthold) (5 min) Discussion item
- Report from meeting of 8/21/01
9. Public comment.

**Next Regular Meeting September 25, 2001**

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MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244**

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/28/01

Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE

SEP 28 2001

MINUTES

SAN FRANCISCO  
PUBLIC LIBRARY

Tuesday, August 28, 2001  
4:00 p.m., City Hall, Room 408

Task Force Members

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan            |
| Seat 4 | Marie Harrison  | Seat 11    | Marjorie Ann Williams |
| Seat 5 | Vacant          | Ex-officio | Lillian Hare          |
| Seat 6 | Hilda Bernstein | Ex-officio | Hala Hijazi           |
| Seat 7 | Ted Kowalczyk   |            |                       |

Roll Call: All present except Williams

Task Force Chair Bernstein introduced Ernest Llorente, Deputy City Attorney, who will be assigned to the Task Force.

Member Brugmann asked about the conflict of interest issue. Deputy City Attorney Llorente stated this was being developed and would be placed in writing.

Administrator Donna Hall introduced Adele Destro representing the Clerk of the Board Office on an interim basis. Lillian Hare has resigned.

1. Approval of Minutes of July 24, 2001. (Guillory/Planthold) (Williams, Courtney absent)

Member Courtney entered meeting at this time.



2. Report from Chair

- (a) Request of Member Joshua Koltun for discussion on general question of how it may be appropriate for members of a policy body to communicate with each other prior to the date of a public session about items on the agenda

Member Planthold suggested any groups invited first send the Task Force something in writing to help us fashion questions, rather than having a free-ranging forum.

Member Koltun to prepare a draft letter for proposed invitation and comments for participation on general panel discussion for public forum.

Consensus among members for the above approach.

- (b) Complaint filed by Scott Trammell Moore

Chair Bernstein stated that Scott Trammell Moore has officially signed a complaint with the Ethics Commission (the same complaint filed with the Task Force) against a member of the Task Force; because of Mr. Moore's officially signing the complaint, she has withdrawn her request to the Ethics Commission forwarding Mr. Moore's complaint filed with the Task Force.

Member Brugmann stated he felt this was an inappropriate process; recommend that when something like this comes up the Chair not take these actions without discussion and without a motion of the Task Force.

Member Koltun stated it appears the letter from the Ethics Commission stating that the Chairperson is the complainant is an error.

Chair Bernstein stated that because of the number of people involved it was impossible to have a quorum to vote on this or to take any action.

Member Courtney stated he did not feel this was a legitimate complaint.

Item No. 2 continued below before Item No. 7.

5. Discussion of San Francisco Conflict of Interest Code; resolution approving a Conflict of Interest Code for the Sunshine Ordinance Task Force

Abe Friedman and Chad Jacobs, Deputy City Attorneys, presented to the Task Force information on a Conflict of Interest Code that jurisdictions can adopt and





submitted a proposed resolution approving a Conflict of Interest Code for the Sunshine Ordinance Task Force.

Item No. 5 continued after Item No. 9.

6. Report from the City Administrator on progress of index of records

Jill Lerner, City Administrator's Office, presented to the Task Force an update on the progress of the index of records; presented by computer the work in progress; submitted letters of request.

Member Courtney left the meeting at this time.

9. Public comment

Joseph Partnasky spoke during public comment regarding the index and Sunshine Ordinance Task Force information availability.

5. Continued from above.

Member Koltun asked about adoption of the Conflict of Interest Code; code provision that whenever a complaint comes before the Task Force, would disclosure requirements require me to disclose all clients of my firm. Chad Jacobs stated FPPC had different standards and depends on the amount of interest in the firm and amount of business the clients give. Member Koltun asked about advocacy and he being a practicing media attorney—am I banned from advocating. Abe Friedman stated advice should be sought on each issue.

Member Guillory asked about political activity. Chad Jacobs stated campaigning for or against a candidate—things like that—difficult to get blanket advice—contact City Attorney's Office or Ethics Commission for advice. Member Guillory asked about advocacy. Chad Jacobs stated that was a question for the Ethics Commission; Member Guillory asked about non-profit interests. Chad Jacobs stated could be implicated in fiduciary matters.

Chair Bernstein asked if this Conflict of Interest Code was optional for the Task Force. Chad Jacobs stated any public official who has the capacity of making decisions is subject to the law; prior to Prop G this body was an advisory body; after Prop G there was still an open question as to whether this body would be making decisions; over a period of time it has been established this body is a normal board or commission and has the power to participate in governmental decisions.

Member Brugmann stated he assumed we are clear in representing sunshine and open government issues; Chad Jacobs stated 90% of the time yes; yet is difficult to imagine every possible situation; if you think for some reason that any



decision you are participating in could have any financial effect on any of your economic interests, you take the time to give us a call, or the Ethics Commission a call and we will help you.

Member Planthold left the meeting at this time.

Member Harrison asked about being a member of other groups in the community. Chad Jacobs stated this Code should not change anything; the members were already subject to most of these laws.

Resolution adopted approving a Conflict of Interest Code for the Sunshine Ordinance Task Force. (Resolution attached) (Guillory/Hogan) (Courtney, Williams, Planthold absent)

2. Continued from above.

(c) Sole Source contract responses

Letter to Mayor regarding lack of sole source contract responses.

(d) Standing Committees

Chair Bernstein stated Member Kowalczyk will serve on the Public Education & Information Committee until such time as another member is appointed to the Task Force.

(e) Task Force training

Annual Sunshine Ordinance training for the Task Force will be planned for the September meeting.

(f) Deputy City Attorney assignment to Task Force

Chair Bernstein had previously introduced Ernest Llorente.

7. Report from Public Education & Information Committee

Chair Hogan reported status of web site; Sunshine Ordinance Task Force representatives spoke before the Libertarian Party.

8. Report from Rules Committee

Deputy City Attorney Llorente reported on meeting of 8/21/01; clarifying options for time limits on public comment; setting a timeframe for adjournment; consideration of materials distributed after the agenda packet is mailed.



3. Administrator's Report

Donna Hall, Administrator, presented report outlining current communications log; complaint log; progress of Sunshine Ordinance Declarations; and copies of letters received.

4. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code. (Postponed to September Task Force meeting at request of complainant.)

This item set for September meeting.

The meeting adjourned at 6:05 p.m.

Donna L. Hall, Administrator

\* The 8/28/01 Sunshine Ordinance Task Force meeting has been recorded and is on file in the Sunshine Ordinance Task Force Office.



- Sec. 3.1-422. Small Business Commission.
- Sec. 3.1-425. Taxi Commission.
- Sec. 3.1-430. Telecommunications and Information Services, Department of.
- Sec. 3.1-435. Transportation Authority, San Francisco County.
- Sec. 3.1-440. Treasure Island Development Authority.
- Sec. 3.1-445. Treasurer-Tax Collector.
- Sec. 3.1-450. War Memorial and Performing Arts Center.
- Sec. 3.1-455. Women, Commission on the Status of.
- Sec. 3.1-460. Court Positions.
- Sec. 3.1-500. Positions Designated by State—Filing Official.

#### SEC. 3.1-100. DEFINITIONS.

As used in this chapter:

(a) "Political Reform Act" means the Political Reform Act of 1974, as said Act reads on the date this ordinance is adopted and as said Act may be amended from time to time.

(b) All other words used in this ordinance shall have the meanings ascribed to them by the Political Reform Act, if the Act provides a definition. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.1; added by Ord. 3-90, App. 1/5/90; amended by Ord. 340-99, File No. 992046, App. 12/30/99)

#### SEC. 3.1-101. ADOPTION OF STATE CODE.

The provisions of Regulation 18730 of the California Fair Political Practices Commission (2 Cal. Admin. Code § 18730), as the regulation reads on the date this ordinance is adopted and as the regulation may be amended from time to time by the Fair Political Practices Commission, are hereby adopted and incorporated herein by this reference as the Conflict of Interest Code for agencies of the City and County of San Francisco listed in this Chapter, commencing with Section 3.1-110. The San Francisco Ethics Commission shall maintain copies of Regulation 18730. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative

Code Section 58.2; added by Ord. 3-90, App. 1/5/90; amended by Ord. 340-99, File No. 992046, App. 12/30/99)

#### SEC. 3.1-102. FILING REQUIREMENTS.

Each officer and employee of the City and County of San Francisco holding a position designated in this Chapter, other than those officials identified in Section 3.1-500, shall file statements disclosing the information required by the disclosure categories set forth in this chapter, on such forms as may be specified by the Fair Political Practices Commission (Form 700 unless otherwise provided by the Commission), and at such times required by Regulation 18730. A copy of the forms to be used shall be supplied by the Ethics Commission to each filing officer. Every officer and employee holding a position designated in this Chapter shall retain his or her filing obligations, notwithstanding any reclassification or title change that may occur in the future as to the same job duties. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.3; added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 386-95, App. 12/14/95; Ord. 340-99, File No. 992046, App. 12/30/99)

#### SEC. 3.1-103. FILING OFFICERS.

With the exception of those officials identified in Section 3.1-500, persons holding designated positions shall file their Statements of Economic Interest with the filing officers designated in this Section.

(a) Members of commissions, boards, and committees as well as department heads, shall file their statements with the Ethics Commission.

(b) The agency heads of the Unified School District, the Community College District, the San Francisco Housing Authority, the Redevelopment Agency, the Office of Citizen Complaints, and the Law Library shall file their statements with the Ethics Commission.

(c) Members of the Civil Grand Jury shall file with the Executive Officer of the Superior Court.

(d) All other persons holding designated positions shall file with their respective department head or the executive director of the agency.





1                                   **San Francisco Sunshine Ordinance Task Force**

2                                   **Resolution No.**

3 **[Resolution approving a Conflict of Interest Code for the Sunshine Ordinance Task**  
4 **Force.]**

5               WHEREAS, The Political Reform Act, California Government Code Section 81000, *et*.  
6 *seq.* requires each state and local government agency to adopt and promulgate a Conflict of  
7 Interest Code; now therefore, be it

8               RESOLVED, That the provisions of Regulation 18730 of the California Fair Political  
9 Practices Commission (2 Cal. Admin. Code § 18730), as the regulation reads on the date this  
10 motion is adopted, and as the regulation may be amended from time to time by the Fair  
11 Political Practices Commission, are hereby adopted and incorporated herein by this reference  
12 as the Conflict of Interest Code for the San Francisco Sunshine Ordinance Task Force; and,  
13 be it

14              FURTHER RESOLVED, That the provisions of Sections 3.1-100 – 3.1-107 of the San  
15 Francisco Campaign and Governmental Conduct Code as the Code reads on the date this  
16 motion is adopted, and as the Code may be amended from time to time by the Board of  
17 Supervisors of the City and County of San Francisco, are hereby adopted and incorporated  
18 herein by this reference to the Conflict of Interest Code for the San Francisco Sunshine  
19 Ordinance Task Force; and, be it

20              FURTHER RESOLVED, That the following designated positions and disclosure  
21 categories constitute Appendix A of the Conflict of Interest Code for the Sunshine Ordinance  
22 Task Force:

| 23 <b>Designated Positions</b>                             | 24 <b>Disclosure Category</b> |
|------------------------------------------------------------|-------------------------------|
| 25                   Member, Sunshine Ordinance Task Force | 1                             |



(e) In instances where the proper filing officer for a particular, designated position is unclear, the Ethics Commission may designate the filing officer. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.4; added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 386-95, App. 12/14/95; Ord. 345-98, App. 11/19/98)

#### SEC. 3.1-104. FILING OFFICER REPORTS.

On or before April 10th of each year, every filing officer shall submit a written report to the Ethics Commission setting forth the names of those persons who are required to file an annual statement with that filing officer under this Chapter but have failed to do so, or a report stating that all such persons have filed. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.5; added by Ord. 3-90, App. 1/5/90; amended by Ord. 386-95, App. 12/14/95)

#### SEC. 3.1-105. NOTICE OF APPOINTMENT AND RESIGNATION.

Whenever the Mayor or a board or commission appoints a department head, or receives the resignation or retirement notice of a department head, the official or the secretary to the board or commission who makes the appointment or receives the resignation or retirement notice, shall promptly inform the Ethics Commission. The official or secretary shall also inform the department head of the necessity to file within 30 days on assuming office or leaving office statement of economic interests. Upon receiving notice of the appointment, or the resignation or retirement, of the department head, the Ethics Commission shall perform the required duties of the filing officer and obtain the required statement of economic interests. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.6; added by Ord. 3-90, App. 1/5/90; amended by Ord. 386-95, App. 12/14/95; Ord. 287-96, App. 7/12/96; Ord. 56-97, App. 3/6/97)

#### SEC. 3.1-106. DISCLOSURE CATEGORIES.

For each agency of the City and County of San Francisco, disclosure categories shall include Category 1 as specified in Section 3.1-107, and such additional categories as may be included in the Sections of this Chapter applicable to each such agency. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.7; added by Ord. 3-90, App. 1/5/90; amended by Ord. 340-99, File No. 992046, App. 12/30/99)

#### SEC. 3.1-107. DISCLOSURE CATEGORY 1.

Unless otherwise specified, for each department or agency, Disclosure Category 1 shall read:

"Disclosure Category 1. Persons in this category shall disclose income from any source, interests in real property, investments, and all business positions in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management." (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 58.8; added by Ord. 3-90, App. 1/5/90; amended by Ord. 56-97, App. 3/6/97; Ord. 340-99, File No. 992046, App. 12/30/99)

#### SEC. 3.1-109. ADMINISTRATIVE SERVICES, DEPARTMENT OF.

(a) Disclosure Category 2. Persons in this category shall disclose all interests in real property.

(b) Disclosure Category 3. Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and income from any source that is subject to the regulatory, permit or licensing authority of the Department of Administrative Services.

(c) Disclosure Category 4. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Purchasing Department to provide commodities or services to the City and County of San Francisco, or has provided commodities or services to the City and County of San Francisco within the last two years.



Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

<http://www.ci.sf.ca.us/bdsvrs/sunshine.htm>

**SUNSHINE ORDINANCE TASK FORCE**

**AGENDA**

**Tuesday, September 25, 2001**

**4:00 p.m.**

**City Hall, Room 408**

**Task Force Members**

Seat 1 Joshua Koltun  
Seat 2 Bruce Bruggmann  
Seat 3 Vince Courtney  
Seat 4 Marie Harrison  
Seat 5 Vacant  
Seat 6 Hilda Bernstein  
Seat 7 Ted Kowalczyk

Seat 8 Robert Planthold  
Seat 9 Daniel Guillory  
Seat 10 Paul Hogan  
Seat 11 Marjorie Ann Williams  
Ex-officio Vacant  
Ex-officio Hala Hijazi

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

**Call to Order**

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of August 28, 2001. (5 min) Action item
2. Annual Sunshine Ordinance Task Force training. (Jackie Minor)
3. Report from Chair. (Hilda Bernstein) (15 min) Discussion and possible action item

- (a) Scott Trammell Moore complaint
- (b) Current Ad Hoc Committee on Conflict of Interest ?

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- (c) Attendance at Standing Committees
- (d) Annual Report
- (e) Letter from City Attorney regarding Deputy assigned to Task Force
- (f) Letter from Bayview Hunters Point Foundation

4. Administrator's Report (Donna Hall) (5 min) Discussion item

5. Report from Public Education & Information Committee (Daniel Guillory) (5 min)  
Discussion item

--Report from meeting of 9/6/01

6. Report from Rules Committee (Bob Planthold) (5 min) Discussion & possible action item.

--Report from meeting of 9/19/01

7. Report from Complaint Committee (Paul Hogan) (5 min) Action item

--Report from meeting of 9/19/01

8. Public hearing, complaint of Jerry McDonald against Planning Department regarding posting of notices and public comment. Action item

9. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code. (Postponed to October Task Force meeting at request of complainant.)

10. Public comment.

**Adjournment**

**Next Regular Meeting October 23, 2001**

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**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

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### **Cell phones, pagers and similar sound-producing electronic devices**

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## **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at [Donna\\_Hall@ci.sf.ca.us](mailto:Donna_Hall@ci.sf.ca.us).

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>





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Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, September 25, 2001  
4:00 p.m.  
City Hall, Room 408

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Task Force Members

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan            |
| Seat 4 | Marie Harrison  | Seat 11    | Marjorie Ann Williams |
| Seat 5 | Vacant          | Ex-officio | Vacant                |
| Seat 6 | Hilda Bernstein | Ex-officio | Hala Hijazi           |
| Seat 7 | Ted Kowalczyk   |            |                       |

Call to Order

**Roll Call:** Present: Koltun, Harrison, Bernstein, Kowalczyk, Planthold, Guillory, Hijazi  
Absent: Brugmann, Courtney, Hogan, Williams

1. Approval of Minutes of August 28, 2001. (Guillory/Planthold) Ayes: Koltun, Harrison, Bernstein, Kowalczyk, Planthold, Guillory. Noes: None. Absent: Brugmann, Courtney, Hogan, Williams.
8. Public hearing, complaint of Jerry McDonald against Planning Department regarding posting of notices and public comment.

There not being a quorum for voting, the public hearing was continued to a Special Meeting on October 2, 2001. Persons present on behalf of the Complainant were: David Monks, Vicki Rosen, Susan McDonald, Jerry McDonald. Gerald Green, Director of Planning, was present on behalf of the staff.



2. Annual Sunshine Ordinance Task Force training

This item was continued to a future meeting.

3. Report from Chair Hilda Bernstein

(a) Scott Trammell Moore complaint

Chair Bernstein reported:

"This was not my complaint; because of the many people who had to be recused, we did not have a quorum to deal with that complaint; prior to that, the Complaint Committee could not put together a quorum to deal with that complaint because two of the members of the Complaint Committee were in one way or another involved in this; because we could do nothing with the complaint but yet could not ignore it or drop it, it seemed to me—I could not even ask people to take a vote on what I should do—there was no quorum—seemed to me the logical thing to do was to move the complaint over to the Ethics Commission which I did then, and there is a letter in your packet that explains to the Ethics Commission why I was moving it—we could not do anything with it; subsequently I made some inquiries about whether or not Mr. Moore had come in to sign the complaint because it was his complaint, not mine or the Task Forces—I was told that he had not come in to sign the complaint—he had to sign the complaint before the Ethics Commission—I believe that several weeks had occurred prior to the time he came here and I had sent it to the Ethics Commission and the time I made the inquiry—given the fact that Mr. Moore had not signed the complaint, it seemed to me that there was no complaint—without his signature before the Ethics Commission, there was no complaint before the Ethics Commission; therefore I wrote a letter to the Ethics Commission telling them that under those circumstances there didn't seem to be any way in which they could proceed—period. That's the story and sequence of events regarding the movement of the Moore complaint to the Ethics Commission."

Deputy City Attorney Llorente stated that given the problems that were generated by the situation, he recommended the action of the Chair.

(b) Current Ad Hoc Committee on Conflict of Interest

This committee has concluded that the question of whether there was an ethical walling off of the Counsel advising the Task Force has been concluded; and now that the Task Force has adopted the requirements of economic interests, this committee has completed its charge.



(c) Attendance at Standing Committees

The issue of attendance will be addressed at a future time.

(d) Annual Report

Requested input to the Annual Report by October 15.

(e) Letter from City Attorney regarding Deputy assigned to Task Force

Letter submitted to the Task Force from the City Attorney confirming Deputy City Attorney Ernest Llorente as the Counsel to the Task Force; letter also submitted to the Task Force from the City Attorney stating Mr. Llorente performs his advice and representation duties to the Task Force separately from other Deputy City Attorneys who advise other departments on matters over which the Task Force has jurisdiction.

(f) Letter from Bayview Hunters Point Foundation

Letter submitted in response to the Task Force request they report to the Task Force their progress. Administrator to send a follow-up letter requesting further information.

10. Public comment

Public comment from Jim Kennedy regarding Taxi Commission public meeting processes and problems with obtaining records.

4. Administrator's Report

Donna Hall reported on activities since the last Task Force meeting.

5. Report from Public Education & Information Committee

Chair Daniel Guillory reported on the Committee meeting of September 6, 2001. This item continued until the next meeting.

6. Report from Rules Committee

Chair Bob Planthold reported on the Committee meeting of September 19. This item continued until the next meeting.



7. Report from Complaint Committee

Committee member Joshua Koltun reported on the Committee meeting of September 19, 2001, stating the Committee found the Task Force had jurisdiction over the Jerry McDonald complaint against the Planning Department. Deputy City Attorney Llorente stated his letter addressed to the Complaint Committee finding non-jurisdiction over this complaint was based on evidence he had before the Committee meeting; because of additional evidence submitted at the Committee meeting, he agreed the Task Force had jurisdiction over this complaint.

9. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code.

This public hearing postponed to October Task Force meeting at request of complainant.

The meeting adjourned at 5:40 p.m.

Submitted by Donna L. Hall, Administrator

\* The 9/25/01 Sunshine Ordinance Task Force meeting has been recorded and is on file in the Sunshine Ordinance Task Force Office.





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Sunshine Ordinance Task Force



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<http://www.ci.sf.ca.us/bdsvprs/sunshine.htm>

**SUNSHINE ORDINANCE TASK FORCE  
SPECIAL MEETING**

**AGENDA**

**Tuesday, October 2, 2001**

**4:00 p.m.**

**City Hall, Room 408**

**Task Force Members**

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan            |
| Seat 4 | Marie Harrison  | Seat 11    | Marjorie Ann Williams |
| Seat 5 | Vacant          | Ex-officio | Vacant                |
| Seat 6 | Hilda Bernstein | Ex-officio | Hala Hijazi           |
| Seat 7 | Ted Kowalczyk   |            |                       |

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**Call to Order**

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of September 25, 2001. (5 min) Action item
2. Public hearing, complaint of Jerry McDonald against Planning Department regarding posting of notices and public comment. (30 min) Action item
3. Annual Sunshine Ordinance Task Force training. (30 min) (Jackie Minor)  
Discussion item

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4. Report from Public Education & Information Committee (Daniel Guillory) (10 min)  
Action item
  - (a) Report from meeting of 9/6/01
  - (b) Recommendation to create a volunteer community liaison position to assist the Public Education and Information Committee with its work.
  - (c) Recommendation for interim three-month appointment of Sue Cauthen to the position of Volunteer Community Liaison
5. Report from Rules Committee (Bob Planthold) (10 min) Action item
  - (a) Report from meeting of 9/19/01
  - (b) Recommendations from Rules Committee
6. Public comment.

**Adjournment**

**Next Regular Meeting October 23, 2001**

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## **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

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10/2/01

Special  
Meeting not  
held

## Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7724  
Fax No. 554-5163  
TDD/TTY No. 544-5227

<http://www.ci.sf.ca.us/bdsvrs/sunshine.htm>

**SUNSHINE ORDINANCE TASK FORCE  
SPECIAL MEETING**

**MINUTES**

**Tuesday, October 2, 2001  
4:00 p.m.  
City Hall, Room 408**

**Task Force Members**

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan            |
| Seat 4 | Marie Harrison  | Seat 11    | Marjorie Ann Williams |
| Seat 5 | Vacant          | Ex-officio | Vacant                |
| Seat 6 | Hilda Bernstein | Ex-officio | Hala Hijazi           |
| Seat 7 | Ted Kowalczyk   |            |                       |

Meeting not held due to absence of a quorum.

Donna L. Hall, Administrator

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Sunshine Ordinance Task Force



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San Francisco 94102-4689  
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**SUNSHINE ORDINANCE TASK FORCE**

**AGENDA**

**Tuesday, October 23, 2001**

**4:00 p.m.**

**City Hall, Room 408**

**Task Force Members**

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
| Seat 1 | Joshua Koltun   | Seat 8     | Robert Planthold      |
| Seat 2 | Bruce Brugmann  | Seat 9     | Daniel Guillory       |
| Seat 3 | Vince Courtney  | Seat 10    | Paul Hogan            |
| Seat 4 | Marie Harrison  | Seat 11    | Marjorie Ann Williams |
| Seat 5 | Vacant          | Ex-officio | Vacant                |
| Seat 6 | Hilda Bernstein | Ex-officio | Hala Hijazi           |
| Seat 7 | Ted Kowalczyk   |            |                       |

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

**Call to Order**

**Roll Call**

**Agenda Changes**

1. Approval of Minutes of September 25, 2001. (5 min) Action item
2. Public hearing, complaint of Jerry McDonald against Planning Department regarding posting of notices and public comment. Action item
3. Report from Chair. (Hilda Bernstein) (5 min) Discussion item
  - (a) Scott Trammell Moore complaint
  - (b) Announcements
  - (c) Attendance at meetings

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4. Administrator's Report. (Donna Hall) (5 min) Discussion item
5. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code. Action item
6. Report from Complaint Committee. (Paul Hogan) (5 min) Action item
  - (a) Report from meeting of 10/11/01
  - (c) Complaint of David Parker; Order of Determination
  - (b) Complaint of Bob Planthold; set for public hearing
7. Public hearing, complaint of Bob Planthold against the Planning Commission regarding the alleged failure to conduct proper voting on agenda items and the alleged seriatim meetings by members during a public meeting. Action item
8. Report from Public Education & Information Committee. (Daniel Guillory) (5 min) Discussion and Action item
  - (a) Report from meeting of 9/6/01
  - (b) Recommendation to create a volunteer community liaison position to assist the Public Education and Information Committee with its work
  - (c) Recommendation for Interim three-month appointment of Sue Cauthen to the position of Volunteer Community Liaison
  - (d) Report from meeting of 10/16/02
9. Report from Rules Committee. (Bob Planthold) (5 min) Discussion & possible action item
  - (a) Report from meeting of 9/19/01
  - (b) Recommendations from Rules Committee regarding meeting procedures
10. Task Force meeting times. (Joshua Koltun) Discussion and possible action item
11. Public comment

**Adjournment**

**Next Regular Meeting November 27, 2001**



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**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

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Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE** DOCUMENTS DEPT.

**MINUTES**

DEC - 4 2001

**Tuesday, October 23, 2001  
4:00 p.m., City Hall, Room 408**

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**Task Force Members**

|        |                 |            |                       |
|--------|-----------------|------------|-----------------------|
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| Seat 7 | Ted Kowalczyk   |            |                       |

(All motions adopted unanimously except as noted. First name indicates initiator of motion; second name indicates seconder of motion.)

Call to Order

Roll Call: All members present (Hijazi absent)

1. Approval of Minutes of September 25, 2001. (Guillory/Kowalczyk) (Absent Brugmann, Courtney, Williams, Hijazi)
2. Public hearing, complaint of Jerry McDonald against Planning Department regarding posting of notices and public comment.

Member Planthold recused from this item.

Member Courtney entered the meeting at this time.

Member Brugmann entered the meeting at this time.

Member Williams entered the meeting at this time.

Complainant Jerry McDonald presented information to the Task Force.



Gerald Green, Director of Planning, presented information to the Task Force.

Public comment by:

Susan McDonald, in support of complainant, regarding not being able to give public comment at Planning Commission hearing.

Dave Monks, in support of complainant, regarding concern the McDonalds were mistreated on this issue,

Vicki Rosen, in support of complainant, regarding inaccuracy of notification.

Female speaker regarding irregularities of process.

Laurie Bell, co-owner of subject property, regarding support of project.

Female speaker regarding Planning Department processes and information to the public.

Ed Bell, owner of property, regarding support of project, stating posting was completed as required.

Joe Altman, architect for the Bells, in support of the project, stating notification was accurate

Order of Determination:

Motion adopted "by virtue of the conceded fact (by the Planning Department) that the revised plans were not sent to all of the neighbors within 150 feet surrounding the proposed project, there was a violation of Section 67.7-1 of the Sunshine Ordinance." (Koltun/Brugmann) (Planthold recused)

Motion adopted that "because the Planning Department violated the Sunshine Ordinance in this matter, the Task Force therefore urges a rehearing for discretionary review be held which would be in conformity with the Sunshine Ordinance." (Bernstein/Harrison) (Koltun and Hogan no) (Planthold recused)

5. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code.

Mission Girls Service Committee/YWCA representatives/Department representatives were in attendance at the meeting,



This item continued to the next meeting, November 27, 2001.

Public comment from Michele Stratton, Board Member of YWCA, requesting the record reflects she was in attendance.

11. Public comment: No public comment
3. Report from Chair.

Chair Bernstein reported on the following:

(a) Scott Trammell Moore complaint

Chair Bernstein stated "there is a letter attached to my report which I sent to the Ethics Commission—I sent them an excerpt of the meeting minutes that we had just to once again try to clarify what was happening."

Letter sent to the Ethics Commission requesting an excerpt of the minutes of 9/25/02 be included with the Scott Trammell Moore complaint file.

(b) Announcements

Eleventh member will be on board next meeting who will be representing the League of Women Voters.

(c) Attendance at meetings

Attended meeting of Complaint Committee this month. "I additionally met with a member of the Task Force, along with two Deputy City Attorneys regarding an ethics issue. It was a fact-finding meeting. I will not reveal what the issue is at this time because it is premature and would unfairly injure somebody so I will not do that."

Member Brugmann stated "This has to do with the Scott Trammell Moore/Paul Hogan complaint from the Alice B. Toklas Club against me—because of the way it was handled and because of the way it was sent to the Ethics Commission in a way the Ethics Commission thought this was a complaint from the Task Force against one of its members, ...so put it in writing, ...put it in the record, sent letters back, I asked for a full explanation, and the only way I could get this was at a break during one of our previous meetings—the Chair was here, the two attorneys were here, the Task Force Administrator was here, and I got an agreement of some sort that there were be an explanation from Jackie Minor, the Deputy City Attorney, who contacted the Ethics task force, and an explanation of what happened because it is important to me in the middle of a campaign involving PG&E and the credibility of the people who have the audacity to question PG&E in San Francisco."





"Now number one, I had to ask for the statement and I got it; I asked for it and it was given to me October 3, 2001, but there is no name on it as to who drafted it; was not sent to the Task Force; was not put in a way that could be put into the public record as I requested—that is number one—so I would like this to be done."

"Number two, the way this item was put at the end, I thought this was another reference to me—the horrible sunshine problems that I was causing—ethics issue, two Deputy City Attorneys—second meeting—Deputy City Attorneys—Ethics Commission—attorney and the Task Force Administrator—I had to call Donna Hall and ask if that was me—she said no; and I said who was it; she said you will have to talk to Hilda; well, I don't want secret meetings reported in this fashion to the Sunshine Task Force in a way that not only further embroils me publicly here as an ethics problem and a sunshine problem for this group, and that then it is not me, and of course I only knew that through interrogation, it involves somebody else here on the Task Force holding secret meetings on an unethical basis, etc., etc., etc.,—just these three or four paragraphs are lots of problems; I am almost at my wits end as to how to clear this up so that it is clear what actually happened; I guess I have to put this in question form—why wasn't this a signed document, why wasn't it sent to the Task Force, why isn't it a part of the record; what in the world is this secret meeting down here involving an ethics issue that looks like it affects me, the way that it is put here—I don't like it."

Chair Bernstein stated "would you believe Bruce that you are not at the center of each and every event?" Member Brugmann stated "I wouldn't know that from this—I don't think that is a particularly relevant answer." Chair Bernstein stated "I think it is—I think it is—it was a fact-finding meeting—I have said I will not reveal anything—it is premature—there may end up being nothing to reveal—so I am not going to answer your question—if you think I have behaved improperly, I suggest you ask the Task Force to remove me from the position of Chair—I don't want to keep dealing with this meeting after meeting—it is obstructing the reason why we are really here; I have repeated verbally and in writing what my thinking was, why it went over to the Ethics Commission—it doesn't help because you don't accept it."

Member Brugmann stated "let me ask some questions then, who was involved in the writing and the discussion on this October 3 chronology—that is number one—who was it—who was involved in it—that is the point, no one knows what I am referring to; Chair Bernstein stated "I was involved in writing it." Member Brugmann asked, "who else wrote it; who else was involved in the discussion; was Donna, was one of the Deputy City Attorneys?"

Chair Bernstein asked "is that important?" Member Brugmann stated "yes it is important—it is very important to me."



Administrator Donna Hall stated "I might be able to help on this—Bruce, as far as I know, was the only who asked for a chronology of the events of this particular complaint—he did ask for this—I went back through the minutes and compiled what I thought were the exact happenings of this complaint from the very beginning when it was submitted; Hilda looked it over, had something to do with it; Jackie Minor, who was involved from the very beginning, also looked it over; and we came to the conclusion that this looked like a very accurate chronology of this particular complaint; I did send to Ernie for his review; I think the reason it was not sent to the entire Task Force, I don't think anyone else had asked for it; Member Courtney asked "if it was on letterhead—City Attorney letterhead." Administrator Donna Hall stated "Bruce had asked for it from me."

Member Brugmann stated "I had asked for it—the two attorneys were here, the Chair was here and Donna Hall was here and I asked for an explanation in writing from Jackie Minor and the group as to what happened." Chair Bernstein stated "you asked for a chronology." Member Brugmann stated "no I asked for an explanation." Chair Bernstein stated "I am sorry, I heard you ask for a chronology, I was standing right there, and you are entitled to a chronology, and it was put together as quickly as was possible."

Member Courtney stated "does this fall under any agenda item, does this fall under the Scott Trammel Moore complaint—(a) Report from Chair--Scott Trammell Moore complaint, and if so, why don't I have it as part of my packet?"

Member Koltun stated "no, it is not part of the Chair Report—may I make a brief comment—with all due respect Bruce, as far as I can tell, and perhaps I am missing something, although I don't want necessarily to call upon a full explanation of what I am missing, as far as I can tell, you misinterpreted something that happened that I think—there may be also other things involved—but there is one point I think you have misinterpreted, which is we all were here when the Chair made a motion, didn't make a motion, the Chair.....based on the apparent lack of a quorum, which she has explained, sent the Scott Trammell Moore complaint to the Ethics Commission; the Ethics Commission then wrote her a letter back which mistakenly used words that indicated that they may have used it as a complaint by the Commission as opposed as a complaint by Mr. Moore; there was a mistake; you brought that up at a meeting and it was generally acknowledged all around that insofar as the Ethics Commission had interpreted this as a complaint by the Commission about you, it was clearly mistaken, and I don't think there is a single member of this Commission who believes that the Commission has made a complaint about you, including the Chair; and to a large extent I believe you are misinterpreting."

Member Koltun stated "I understand your concern that your name not be sullied, but I really don't believe that the sullying that you are saying was going on is going on; Mr. Moore has made a complaint that may have what ever origins you have indicated you believe it has; but I don't believe the Commission has taken



any action one way or the other, or that Ms. Bernstein has taken any action; I believe a lot of this comes from simply a mistake by the Ethics Commission as to what had gone on, which if there is something we could do with the Commission to clarify, but I don't think there is any disagreement here about this."

Chair Bernstein stated "I did send a letter, as I recall, to the Commission, correcting that error and made it very clear that it was neither I nor the Task Force that made this complaint—I have said that now over and over again—I have put it in writing, and that is it. Now Dan asked to make a motion that unfortunately does not appear on the agenda as an action item—doesn't appear at all. I would ask Dan to tell us what the motion will be, that it will be on the November agenda, and that we will be able to vote on it, and I would ask that this be the end."

Member Guillory stated, "All I asked and am renewing my request that I had made for this meeting, and I will make it for the next meeting, is just that we add an action item that would be a motion that says the Sunshine Ordinance Task Force has not filed any complaints against Bruce Brugmann."

Member Courtney stated "I would like to amend to say or any of its members—that is the real issue here." Member Guillory stated "if that is an issue we will expand it—I want Bruce's name explicitly because that is what brought this up—nor any other members on the Task Force—I would ask that this be an action item for the next meeting."

Member Williams stated "Madam Chair, don't get excited, we all understand, but when I saw the action too, maybe I was misreading it, I said maybe it was against me, so I mean, you know, whether the verbiage or something, ...maybe I was out of line or something."

Chair Bernstein stated "let's not be paranoid."

Member Planthold stated "look folks, am reading the draft text, and it says 'I met with a member,' so if Bruce knows if he met with Hilda and if she didn't meet with him, it clearly can't be him, and Marjorie says 'huh,' so it is like read the text, and you know if it ain't you then relax."

Member Williams stated "it could be another member." Chair Bernstein stated "you didn't meet with me on this, and Bruce didn't meet with me on this, it must have been some body else."

Member Brugmann stated "no, it could have been a reference to the little ad hoc meeting we had that day, that is the point—now I want this document submitted to everybody, the chronology—my point was that I wanted it on the public record and so everybody should get this and it should be redone to show who was the authors, who this was from."



Deputy City Attorney Llorente stated "that could be part of the motion that is going to be heard at the next meeting."

4. Administrator's Report

Administrator Donna Hall submitted her monthly report.

6. Report from Complaint Committee

Committee Chair Hogan reported.

(a) Report from meeting of 10/11/01

(b) Complaint of David Parker; Order of Determination

Order of Determination approved as recommended by the Complaint Committee as follows, by the following vote: (Guillory/Planthold)

Ayes: Koltun, Brugmann, Courtney, Harrison, Bernstein, Kowalczyk,  
Guillory, Hogan, Williams, Planthold

Noes: None

Based on the information provided the Complaint Committee from the complainant David Parker, and from Jeannie Hwang-Brae of the Delinquency Prevention Commission, the Sunshine Ordinance Task Force finds:

1. The Sunshine Ordinance Task Force does have jurisdiction over this complaint based on the allegations of non-compliance of the posting of agendas on the web 72 hours before a meeting; of the posting of agendas at the Public Library 72 hours before a meeting; access to public records; and the holding of a closed session.

2. The Complaint Committee and the Sunshine Ordinance Task Force find the allegations of David Parker against the Delinquency Prevention Commission to be true.

3. The Complaint Committee and the Sunshine Ordinance Task Force find that the violations raised by the complainant have recently been corrected by the Delinquency Prevention Commission, and the Delinquency Prevention Commission is now in compliance with the Sunshine Ordinance.





4. The Complaint Committee and the Sunshine Ordinance Task Force acknowledge that it is beneficial for persons to appear before the Sunshine Ordinance Task Force if they are having difficulty working with agencies or groups; and for agencies to appear before the Sunshine Ordinance Task Force regarding alleged violations of the Sunshine Ordinance.

5. The Complaint Committee commends the complainant and the City representative of the Delinquency Prevention Commission for their prompt resolution of the allegations in this complaint.

(c) Complaint of Bob Planthold; set for public hearing

Linda Avery addressed the Task Force stating she was in attendance representing the Planning Commission.

7. Public hearing, complaint of Bob Planthold against the Planning Commission regarding the alleged failure to conduct proper voting on agenda items and the alleged seriatim meetings by members during a public meeting.

Motion adopted continuing this hearing to December 18, 2001. (Hogan/Guillory)

Ayes: Koltun, Brugmann, Courtney, Harrison, Bernstein, Kowalczuk, Guillory, Hogan, Williams.

Noes: None

Recused: Planthold

Member Harrison left the meeting at this time.

8. Report from Public Education & Information Committee

Committee Chair Guillory reported.

(a) Report from meeting of 9/6/01

- (b) Recommendation to create a volunteer community liaison position to assist the Public Education and Information Committee with its work

Motion adopted creating a volunteer community liaison position to assist in the Public Education and Information Committee with its work.  
(Courtney/Hogan) (Harrison absent)

Ayes: Koltun, Brugmann, Courtney, Bernstein, Kowalczuk, Planthold, Guillory, Hogan, Williams.

Noes: None

Absent: Harrison



- (c) Recommendation for Interim three-month appointment of Sue Cauthen to the position of Volunteer Community Liaison

Motion adopted appointing Sue Cauthen to the position of Volunteer Community Liaison for an interim term of three months. (Courtney/Hogan)

Ayes: Koltun, Brugmann, Courtney, Bernstein, Kowalczyk, Planthold, Guillory, Hogan, Williams.

Noes: None

Absent: Harrison

- (d) Report from meeting of 10/16/02

Member Guillory left the meeting at this time.

9. Report from Rules Committee

Chair Bob Planthold reported on meeting of 9/19/01 outlining recommendations of a) recommending that the Chair be authorized to pursue questions to establish the relevance of new material submitted at meeting-time; b) recommending that if the Chair determines that the material is relevant, the Chair will ask if both parties are agreeable to waive the 45-day time limit for responding to a complainant regarding their complaint; and c) recommending to the Task Force that materials could be excluded from consideration and an Order of Determination issued with the stipulation that if the Task Force issued an Order of Determination adverse to the complainant, the complainant could file a new complaint alleging the same violations with the new supporting materials.

After discussion among the Task Force members, consensus was to leave these recommendations to the discretion of the Chair.



10. Task Force meeting times

Member Koltun expressed concern about the ability of arriving at the Task Force meetings by 4:00 p.m.; and the ability of community persons to arrive at 4:00 p.m. Consensus among the Task Force Members to leave the time at 4:00 p.m. for the present time.

The meeting adjourned at 7:45 p.m.

Donna L. Hall, Administrator

\* The 10/23/01 Sunshine Ordinance Task Force meeting has been recorded and is on file in the Sunshine Ordinance Task Force Office.

\*\*The quotations included in the minutes are an attempt to as closely as possible take down exactly what was audio recorded—however, the audio tape is the official minutes of the Sunshine Ordinance Task Force.



Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE  
AGENDA**

**Tuesday, November 27, 2001  
4:00 p.m.**

**City Hall, Room 408**

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**Call to Order**

**Roll Call**

**Agenda Changes**

1. Approval of minutes of October 23, 2001. (5 min) Action item
2. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code. (30 min) Action item
3. Report from Chair. (Hilda Bernstein) (5 min) Discussion item
4. Restatement of the Jerry McDonald Order of Determination. (5 min) Action item

5. Statement that the Sunshine Ordinance Task Force has not filed any complaints against Bruce Brugmann, or any other member of the Sunshine Ordinance Task Force. (5 min) Action item
6. Report from Supervisor of Public Records (City Attorney) Annual review and report. (15 min) (Paul Zarefsky Discussion item
7. Report from Public Education and Information Committee. (Danny Guillory) (10 min) Action item  
  
Report from meeting of November 6, 2001  
Recommendation to accept Volunteer Community Liaison optimal job qualifications.
8. Report from Administrator. (Donna Hall) (5 min) Discussion item
9. Public comment.

**Adjournment**

**Next Regular Meeting December 18, 2001**



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<http://www.ci.sf.ca.us/bdspvrs/sunshine.htm>

## SUNSHINE ORDINANCE TASK FORCE

### MINUTES

Tuesday, November 27, 2001

4:00 p.m.

City Hall, Room 408

### Task Force Members

|            |                       |
|------------|-----------------------|
| Seat 1     | Joshua Koltun         |
| Seat 2     | Bruce Bruggmann       |
| Seat 3     | Vince Courtney        |
| Seat 4     | Marie Harrison        |
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| Seat 7     | Ted Kowalczyk         |
| Seat 8     | Robert Planthold      |
| Seat 9     | Daniel Guillory       |
| Seat 10    | Paul Hogan            |
| Seat 11    | Marjorie Ann Williams |
| Ex-officio | Vacant                |
| Ex-officio | Hala Hijazi           |

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(All motions adopted unanimously except as noted. First name indicates initiator of motion; second name indicates seconder of motion.)

Roll Call: Present: Koltun, Bruggmann, Harrison, Bernstein, Kowalczyk, Guillory, Hogan, Williams.  
Absent: Courtney, Planthold

1. Approval of minutes of October 23, 2001. (Guillory/Hogan) (Courtney; Planthold absent)
3. Report from Chair. No report
4. Restatement of the Jerry McDonald Order of Determination.



Mr. Jerry McDonald filed a complaint against the City Planning Department and Commission for alleged violations of the Sunshine Ordinance. Mr. McDonald alleged that the Planning Department issued erroneous information when it issued notices regarding a certain building application for the property located at 176 Clipper Street.

The Complaint Committee of the Sunshine Ordinance Task Force conducted a Jurisdictional Hearing regarding Mr. McDonald's complaint. At the conclusion of the hearing the Committee found jurisdiction for alleged violations of public notice requirements and the public meeting requirements of the Sunshine Ordinance.

Mr. McDonald alleges and Mr. Gerald Green concedes that City Planning did not reissue the building application and the corrected building plans with the corrected dimensions of the McDonald house during the notice process for Discretionary Review. The neighbors within the 150 feet of the proposed project did not receive the corrected plans. The failure to provide notice is a violation of Section 67.7-1 of the Sunshine Ordinance.

Mrs. McDonald alleges that she was told by a City Planner that she would not be able to speak at the Planning Commission for the full time allotted speakers because she was the spouse of the petitioner for Discretionary Review.

Motion adopted clarifying the motions that were adopted in the Order of Determination dated October 23, 2001. (Koltun/Hogan) (Courtney, Planthold absent) (The vote on the motion of October 23, 2001 stands.)

"By virtue of the conceded fact the corrected plans were not sent to all of the neighbors within 150 feet surrounding the proposed project, there was a violation of the Sunshine Ordinance."

"Because the Planning Department violated the Sunshine Ordinance by not providing adequate notice in the Discretionary Review Hearing Process, the Task Force therefore urges the Planning Department to re-institute the notice and Discretionary Review hearing process in this matter, which would be in conformity with the Sunshine Ordinance."

2. Public hearing, Mission Girls Service Committee complaint against the YWCA for alleged violation of Section 12L of the Administrative Code.



Speaking on behalf of the complaint were:

Valerie Tulier, Mission Girls Services Committee of Management,  
regarding correctly noticed public meetings; number of public  
meetings; security at meeting, budget distribution; lost funding;  
dismissal of Board members; racism

Tracy Brown, formerly with YWCA regarding loss of funding

Female speaker, formerly with YWCA regarding not being allowed to  
speak

Valentina Sedeno, formerly with YWCA regarding being discharged

Male speaker, volunteer, regarding funding, and budget items, lack of  
public comment, not allowed to enter meeting

Speaking on behalf of YWCA were:

Michele Stratton, Board Member, YWCA, regarding issues addressed by  
the Mission Girls Services Committee of Management

Member Harrison left the meeting at this time.

Motion adopted that during the past year the Task Force had jurisdiction over the YWCA; during the past year the YWCA received over \$250,000, and pursuant to Administrative Code 12L failed to hold the two required public hearings as required by funding received in fiscal year 2000. (Koltun/Kowalczyk) (Planthold, Harrison, Courtney absent)

Motion adopted that because there was a violation of Section 12 L for fiscal year 2000, the Sunshine Ordinance Task Force will communicate this Order of Determination to the funding agencies for the YWCA; because of the violation, the community was not adequately able to monitor the funding and requests the funding agencies to undertake a thorough investigation of the city funding and allocations to the YWCA. (Hogan/Koltun) (Planthold, Harrison, Courtney absent)

9. Public comment

June Quan, currently on Board of YWCA, regarding willingness of Y to take on tough situations.

Cathy Garza regarding meeting of YWCA; closed session meeting; funding.

6. Report from Supervisor of Public Records (City Attorney) Annual review and report.

Paul Zarefsky, Deputy City Attorney, submitted report from the Supervisor of Public Records.





Member Hijazi left the meeting at this time.

5. Statement that the Sunshine Ordinance Task Force has not filed any complaints against Bruce Brugmann, or any other member of the Sunshine Ordinance Task Force.

Motion adopted that the Sunshine Ordinance Task Force, nor Chair Hilda Bernstein, has filed any complaints against Bruce Brugmann, or any other member of the Sunshine Ordinance Task Force. (Guillory/Koltun) (Planthold, Harrison, Courtney absent)

7. Report from Public Education and Information Committee.

Chair Daniel Guillory presented report of Committee

- Report from meeting of November 6, 2001
- Recommendation to accept Volunteer Community Liaison optimal job qualifications.

8. Report from Administrator.

Administrator Donna Hall presented monthly report.

Adjournment: The meeting adjourned at 6:00 p.m.

Donna L. Hall, Administrator

\* The 11/27/01 Sunshine Ordinance Task Force meeting has been recorded and is on file in the Sunshine Ordinance Task Force Office.



Sunshine Ordinance Task Force



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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Fax No. 554-5163  
TDD/TTY No. 544-5227

<http://www.ci.sf.ca.us/bdsvprs/sunshine.htm>

**SUNSHINE ORDINANCE TASK FORCE DOCUMENTS DEPT**

**AGENDA**

**Tuesday, December 18, 2001**

**4:00 p.m.**

**City Hall, Room 408**

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**Task Force Members**

Seat 1 Joshua Koltun  
Seat 2 Bruce Bruggmann  
Seat 3 Vince Courtney  
Seat 4 Marie Harrison  
Seat 5 Heather Sterner  
Seat 6 Hilda Bernstein  
Seat 7 Ted Kowalczyk

Seat 8 Robert Planthold  
Seat 9 Daniel Guillory  
Seat 10 Paul Hogan  
Seat 11 Marjorie Ann Williams  
Ex-officio Vacant  
Ex-officio Hala Hijazi

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force Office, Room 409.

**Call to Order**

**Roll Call**

**Agenda Changes**

1. Approval of minutes of November 27, 2001. (5 min) Action item.
2. Public hearing, complaint of Bob Planthold against the Planning Commission regarding the alleged failure to conduct proper voting on agenda items and the alleged seriatim meetings by members during a public meeting. Action item.
3. Annual Sunshine Ordinance Task Force training (30 min) (Jackie Minor) Discussion item.
4. Report from Chair. (Hilda Bernstein) (5 min) Discussion item.

5. Report from Complaint Committee. (Paul Hogan) (10 mins) Discussion and possible action item. Motion to add procedures on how to handle late submitted documents (see attachment "Filing a Complaint with the Sunshine Ordinance Task Force").
6. Recommendation from Public Education and Information Committee. (Daniel Guillory) (10 mins) Discussion and possible action item.
  - Community Liaison Volunteer extension.
7. Report from Administrator. (Donna Hall) (5 min) Discussion item.
8. Public comment.

**Adjournment**

**Next Regular Meeting January 24, 2002**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW AT CITY HALL,  
MONDAY THROUGH FRIDAY, CITY HALL, ROOM 244**

### **Disability Access**

The hearing room is wheelchair accessible.

### **Chemical-Based Products**

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

### **Cell phones, pagers and similar sound-producing electronic devices**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

## **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Donna Hall by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 409, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at Donna\_Hall@ci.sf.ca.us.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>



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Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE**

**MINUTES**

**Tuesday, December 18, 2001**

**4:00 p.m.**

**City Hall, Room 408**

**Task Force Members**

|            |                       |
|------------|-----------------------|
| Seat 1     | Joshua Koltun         |
| Seat 2     | Bruce Brugmann        |
| Seat 3     | Vince Courtney        |
| Seat 4     | Marie Harrison        |
| Seat 5     | Heather Sterner       |
| Seat 6     | Hilda Bernstein       |
| Seat 7     | Ted Kowalczyk         |
| Seat 8     | Robert Planthold      |
| Seat 9     | Daniel Guillory       |
| Seat 10    | Paul Hogan            |
| Seat 11    | Marjorie Ann Williams |
| Ex-officio | Vacant                |
| Ex-officio | Hala Hijazi           |

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(All motions adopted unanimously except as noted. First name indicates initiator of motion; second name indicates seconder of motion.)

Called to Order at 4:00 p.m.

Roll Call: Present: Koltun, Brugmann, Courtney, Harrison, Sterner, Bernstein, Kowalczyk, Planthold, Hogan, Williams. Absent: Guillory, Hijazi

1. Approval of minutes of November 27, 2001. Minutes approved.  
(Hogan/Kowalczyk) (Guillory absent)
2. Public hearing, complaint of Bob Planthold against the Planning Commission regarding the alleged failure to conduct proper voting on agenda items and the alleged seriatim meetings by members during a public meeting.





Member Planthold recused from Task Force discussion on this item.

Bob Planthold, complainant, spoke in support of the complaint regarding roll call voting; Planning Commission did not have a roll call vote. Second allegation of complaint regarding seriatim issue; this issue not to be pursued; requested the Task Force dismiss of consideration on this issue.

Linda Avery, Planning Commission Secretary, spoke in opposition to the complaint regarding roll call vote stating roll call voting has never been taken on any issues; all votes are recorded.

Chair Bernstein stated she had invited Planning Commission Chair Theoharis to appear before the Task Force or to meet with a few of us; she has declined.

Public comment from Lisa Dollard Ikeda, 2252 Beach Street, spoke in support of the complaint stating it was not clear who voted how on the issue, either audio or on the tape.

Public comment from Edward Dollard speaking in support of the complaint stating he could not tell what the vote was.

Motion introduced that insofar that the Planning Commission neglected to conduct a vote whereby the public could determine how each member had voted on the question, there was a violation of Sunshine Ordinance and the Charter. (Koltun/Courtney) Motion amended to say that insofar as the Planning Commission neglected to conduct a vote whereby the public could determine how each member had voted on the question, there was a violation of the spirit of the Sunshine Ordinance and the Charter. (Sterner/Williams) Motion adopted. (Guillory absent) (Planthold recused)

Motion introduced that all commissions and task forces and bodies that vote in the City of San Francisco be required to have visible and audible roll call votes. (Brugmann/Harrison) Motion withdrawn.

Amendment to motion that says we have before us Administrative Code Section 67.16 which discusses the roll call vote on each matter, and we also have the relevant Charter provision that requires every member of every commission to record their vote; the Sunshine Ordinance Task Force's view of the meaning of those two existent provisions is that every member of a commission must make their vote clearly known to the public either audibly or visibly, and that in the case of any question as to how members have voted, the secretary or chairman should announce what the vote is, giving the public the ability to know and members opportunity to clarify any confusion about their votes. (Koltun) Amendment to motion withdrawn.



Ad hoc committee to be formed to review the ordinance and make recommendations of additions, additions, etc., and the committee will come back to the full task force.

Motion introduced that the Task Force recommends that on each vote for every task force and commission and body that votes in the City/County of San Francisco that the clerk call the roll and the member provide a visible and audible vote that is so recorded in the minutes. (Brugmann/Harrison) Motion withdrawn.

Item on the next Task Force agenda regarding discussion of what the requirements of Section 67.16 and Charter provisions dealing with provisions of roll call voting.

8. Public comment.

Bob Planthold regarding Planning Commission must have reasonable accommodation procedures

4. Report from Chair.

Chair Bernstein reported she attended Complaint Committee meeting; and did some follow-up correspondence on previous complaints.

5. Report from Complaint Committee.

Committee Chair Hogan presented report from the Committee.

Motion adopted approving recommendation from the Complaint Committee from their meeting of December 5 adopting a checklist for the filing of a complaint with the Sunshine Ordinance Task Force and a recommended policy change that includes the submittal of documents after the original submittal of the complaint. (Planthold/Williams) (Guillory absent)

At this time Member Planthold chaired the meeting.

6. Recommendation from Public Education and Information Committee.

Committee Vice Chair Kowalczyk presented report from the Committee.

Motion adopted approving a Volunteer Community Liaison position to work with the Public Education & Information Committee. (Kowalczyk/Courtney) (Koltun, Bernstein, Guillory absent)



Motion adopted appointing Sue Cauthen to this position for a three-month trial term. (Kowalczuk/Hogan) Motion withdrawn

Task Force Chair appointed Sue Cauthen as the Volunteer Community Liaison person to the temporary three-month appointment.

7. Report from Administrator

Administrator Donna Hall presented monthly report.

3. Annual Sunshine Ordinance Task Force training.

The Task Force will set a Special Meeting for Sunshine Ordinance training.

The meeting adjourned at 5:50 p.m.

Submitted by Donna L. Hall, Administrator

\* The 12/18/01 Sunshine Ordinance Task Force meeting has been recorded and is on file in the Sunshine Ordinance Task Force Office.











